

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF NEW MEXICO

3           UNITED STATES OF AMERICA,

4                               Plaintiff,

5                   vs.                               NO:   CR-15-4268 JB

6           ANGEL DELEON, et al.,

7                               Defendants.

8   VOLUME 11

9                   Transcript of Jury Trial before The Honorable  
10           James O. Browning, United States District Judge, Las  
11           Cruces, Dona Ana County, New Mexico, commencing on  
12           February 12, 2018.

13           For the Plaintiff: Ms. Maria Armijo, Mr. Randy  
14           Castellano, Mr Matthew Beck

15           For the Trial 1 Defendants: Ms. Amy Jacks, Mr.  
16           Richard Jewkes, Ms. Theresa Duncan, Mr. Marc Lowry,  
17           Ms. Carey Bhalla, Mr. Bill Maynard, Mr. Ryan Villa,  
18           Ms. Justine Fox-Young.

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1 THE COURT: All right. Good morning,  
2 everyone. I appreciate everybody being here and on  
3 time and ready to go. I think Ms. Standridge is  
4 going to check on the jury. Anything we need to  
5 discuss before we bring the jury in this morning?

6 How about from the Government's  
7 standpoint? Mr. Castellano? Mr. Beck?

8 MR. BECK: No, Your Honor.

9 THE COURT: How about from the defendants'  
10 standpoint? Anything?

11 MR. VILLA: Your Honor, just briefly,  
12 Ms. Wolf had indicated to the Court last week in a  
13 note that she knew Mr. Martinez, I believe. And I  
14 guess that didn't come up in voir dire, so I guess I  
15 would ask if the Court would be willing to inquire a  
16 little bit further into her relationship with Mr.  
17 Martinez.

18 THE COURT: All right. Any objection to  
19 that?

20 MR. CASTELLANO: No, Your Honor. That  
21 would be fine. I think she thought that Damon  
22 Martinez actually signed the document. Of course,  
23 his name is on all the documents. So we can clarify  
24 that.

25 THE COURT: All right. Do you want see if

1 she's here? If she's here, we can bring her in  
2 right now.

3 Anyone else on the defense side have  
4 anything we need to discuss?

5 (Juror entered the courtroom.)

6 THE COURT: All right. Good morning,  
7 Ms. Wolf. If you'll sit down right there, Ms. Wolf.  
8 And you'd sent a note that said, "I might know," or,  
9 "I did know Damon Martinez." Can you tell us how  
10 you know Damon Martinez.

11 JUROR: He worked with my ex-husband in  
12 Jeff Bingaman's office in Washington, D.C.

13 THE COURT: All right.

14 JUROR: And then my ex-husband was  
15 terminally ill about two years ago, and he came to  
16 the services and spent time with my son, you know,  
17 during the services and what have you.

18 THE COURT: Right.

19 JUROR: And then I ran into him in  
20 December, at a gingerbread house decorating party.  
21 He was running for Congress, so he made it a thing.  
22 And then --

23 THE COURT: Now, my understanding is that  
24 he didn't sign any of the papers. His name was  
25 above the signature. Other people within the office

1 signed those. But he was U.S. Attorney at the time  
2 that some of the documents that you've seen are  
3 there. Do you think that would keep you from being  
4 fair and impartial to any of the parties in this  
5 case?

6 JUROR: No, sir.

7 THE COURT: Do you think you'd favor the  
8 United States in any way --

9 JUROR: No, sir.

10 THE COURT: -- as a result of seeing his  
11 name there?

12 JUROR: No, sir.

13 THE COURT: Okay. All right.

14 Mr. Castellano, do you want to ask any  
15 questions?

16 MS. DUNCAN: It's redacted.

17 MR. CASTELLANO: This is an exhibit in  
18 evidence.

19 MS. DUNCAN: This is redacted.

20 MR. CASTELLANO: So the only point -- and  
21 I'm showing this to you just for the purpose of -- I  
22 think last week you may have seen Damon Martinez'  
23 signature. Do you see where on the top it has him  
24 as the United States Attorney, and then actually Ms.  
25 Armijo is signing potentially the signature line?

1 JUROR: Yes, I did realize that that was  
2 what I was looking at. I just saw his name and I  
3 was, like, oh, dear.

4 MR. CASTELLANO: I wanted to make sure, is  
5 that what you were referring to when you saw his  
6 name?

7 JUROR: There was a plea agreement that  
8 was shown. Is that what I'm looking at?

9 MR. CASTELLANO: Yes, ma'am.

10 JUROR: Yes.

11 MR. CASTELLANO: Thank you. That's all I  
12 have, Your Honor.

13 THE COURT: Mr. Villa, do you have any  
14 questions?

15 Ms. Duncan, do you have any?

16 MS. DUNCAN: No, Your Honor.

17 THE COURT: Mr. Maynard, Ms. Bhalla?

18 MR. MAYNARD: No, Your Honor.

19 THE COURT: Ms. Jacks, Mr. Jewkes?

20 MS. JACKS: No, Your Honor.

21 THE COURT: All right.

22 Thank you, Ms. Wolf. Thank you very much.

23 (Juror left the courtroom.)

24 All right. Anything else on that matter,  
25 Ms. Armijo?

1 MS. ARMIJO: Not on that matter, Your  
2 Honor, but Mr. Duran is here at the Court's request.  
3 He has his attorney here, but he has the medical  
4 chart as far as what Mr. Perez was taking.

5 THE COURT: All right. Mr. Duran.  
6 Mr. Duran, if you want to come up and make your  
7 presentation.

8 MS. ARMIJO: And Your Honor, I had  
9 explained to him outside, since he was here at the  
10 Court's request, what I believe the Court was  
11 requesting and issues as to insulin. But if there  
12 is more, certainly then that's what I was aware of.  
13 But he does have, I believe his charts; is that  
14 correct?

15 THE COURT: Okay.

16 MR. DURAN: That is correct.

17 THE COURT: I guess what we had heard last  
18 week -- I may have been losing track of time, but I  
19 think it was maybe Friday morning, and counsel can  
20 correct me, that we had gotten word from the  
21 detention center that he had refused to take his  
22 insulin on -- I believe -- would it have been  
23 Thursday? And I could be off on the details. Do  
24 you have any information on that? Is that correct,  
25 incorrect?



1 MR. DURAN: Let me look through the chart,  
2 please.

3 THE COURT: Certainly.

4 MR. DURAN: I have a refusal dated  
5 February 8th.

6 THE COURT: So February 8 would have been  
7 Thursday, wouldn't it? The 7th was Wednesday. Was  
8 it one refusal or is it multiple? What does your  
9 chart show?

10 MR. DURAN: I have another refusal on  
11 February 2nd and on December 22nd.

12 THE COURT: Okay. There are three  
13 incidents, but only one of them was last week. And  
14 then one was February 2, which I think would have  
15 been Friday of the week before, correct? Friday,  
16 February 2, and then one on February 8.

17 MR. DURAN: I think so.

18 THE COURT: All right. And do you have  
19 any problem with anybody looking at these records?  
20 Mr. Villa, particularly, who is Mr. Perez' attorney.  
21 Do you have any problem with that?

22 MR. DURAN: No, sir.

23 THE COURT: All right.

24 Ms. Armijo, any questions you want to ask  
25 Mr. Duran?

1 MS. ARMIJO: How often is he supposed to  
2 take the insulin? Is it daily or is it once a week?

3 MR. DURAN: His insulin is ordered every  
4 morning and every night.

5 THE COURT: How about Mr. Villa? Do you  
6 have any questions of Mr. Duran?

7 MR. VILLA: Mr. Duran, can you tell me  
8 your title?

9 MR. DURAN: My title is Health Services  
10 Administrator.

11 MR. VILLA: And the paperwork that you're  
12 looking at -- do you mind if I sit here?

13 THE COURT: No, not at all.

14 MR. VILLA: You indicated a refusal on  
15 2/2; February 2nd.

16 MR. DURAN: Yes.

17 MR. VILLA: What was that a refusal of?

18 MR. DURAN: He was called out for a blood  
19 sugar check.

20 MR. VILLA: So he refused the blood sugar  
21 check?

22 MR. DURAN: That's correct.

23 MR. VILLA: But he didn't refuse the  
24 insulin?

25 MR. DURAN: It's not specifically

1 documented there, no.

2 MR. VILLA: Let me ask about the February  
3 8. What was that a refusal of?

4 MR. DURAN: For wound care, blood sugar  
5 check, and medication.

6 MR. VILLA: What medication?

7 MR. DURAN: It doesn't specifically state.

8 MR. VILLA: Can you tell me, February 8,  
9 who was the -- was it a nurse that was writing those  
10 notes?

11 MR. DURAN: That's correct. And on  
12 February 8, on the insulin record, it says  
13 "Refused."

14 MR. VILLA: And who is the provider that  
15 wrote those notes?

16 MR. DURAN: This would have been the  
17 nursing staff.

18 MR. VILLA: Can you tell me which member  
19 of the staff?

20 MR. DURAN: I see two initials there, but  
21 I can't tell you exactly who they are.

22 MR. VILLA: By looking at the initials  
23 you're not able to tell who the person is?

24 MR. DURAN: That's correct.

25 MR. VILLA: One moment, Your Honor.

1 THE COURT: All right. Certainly.

2 MR. VILLA: And Mr. Duran, you weren't  
3 present when these service providers were speaking  
4 to Mr. Perez, were you?

5 MR. DURAN: No, I wasn't.

6 MR. VILLA: And so on February 2, you  
7 don't know what -- other than that it was a callout  
8 for checking blood sugar, you don't know any of the  
9 other circumstances?

10 MR. DURAN: I do not.

11 THE COURT: Anything else, Mr. Villa? Ms.  
12 Fox-Young?

13 MR. VILLA: That's it, Your Honor.

14 THE COURT: All right.

15 Thank you, Mr. Villa.

16 Ms. Fox-Young, does any other defendant  
17 have any questions of Mr. Duran? Ms. Bhalla? Mr.  
18 Maynard?

19 MS. BHALLA: No, Your Honor.

20 MS. DUNCAN: No, Your Honor.

21 MS. JACKS: No, Your Honor.

22 THE COURT: Do you have something, Mr.  
23 Castellano?

24 MR. CASTELLANO: Your Honor.

25 Mr. Duran, are you able -- under your

1 rules, are you able -- you or the service provider  
2 who took the notes -- are they able to come to court  
3 to testify to these things before the jury?

4 MR. DURAN: I believe so, if the Court so  
5 orders or a subpoena is served.

6 MR. CASTELLANO: Thank you.

7 THE COURT: All right. What I propose to  
8 do, if this is all right with Mr. Duran and his  
9 attorney, why don't we take the documents. You can  
10 give them to Ms. Standridge. She'll make a copy of  
11 them, and we'll then file them as clerk's minutes  
12 letter J to her clerk's minutes, and then we'll  
13 return the originals to you. Does that work out  
14 with the Government?

15 MR. CASTELLANO: It does, Your Honor.  
16 Will those be filed sealed, since they deal with a  
17 medical --

18 THE COURT: I think so. We'll file them  
19 under seal.

20 MR. CASTELLANO: No objection.

21 MR. VILLA: I'd like the opportunity to  
22 look at them for any redactions that are necessary.

23 THE COURT: That's fine. So when we get a  
24 set, why don't we make a set for Mr. Villa and he  
25 can look at them before we file them.

1 THE CLERK: Okay.

2 THE COURT: Does that work for you, Mr.  
3 Castellano?

4 MR. CASTELLANO: It does, Your Honor.

5 THE COURT: All right.

6 Mr. Duran, thank you very much. Thanks  
7 for the assistance and your counsel. Appreciate  
8 y'all's help this morning.

9 I think the jury is ready. If we don't  
10 have anything else, why don't we all rise.

11 THE CLERK: Your Honor, for clarification,  
12 you're asking, will it be the entire chart or just  
13 the record that you were asking?

14 THE COURT: No, I'm proposing we get the  
15 whole chart. What do y'all think? That way we  
16 don't just --

17 MR. VILLA: Your Honor, if it's the whole  
18 chart, then I would ask that one copy be made and  
19 given to us so that we can review it before anything  
20 gets filed.

21 THE COURT: No, I agree with that.

22 MR. VILLA: Okay.

23 THE COURT: I agree with that.

24 MR. VILLA: And I think generally I would  
25 say what should be filed is what's at issue today.

1 But when we have a chance to review it, we can mark  
2 things that we don't think should be admitted.

3 THE COURT: I probably will want a little  
4 adversarial process. So after you go through it, if  
5 there are some clear redactions and stuff, we'll  
6 redact those. And then maybe one of the Government  
7 lawyers can look at it, and if they think something  
8 else ought to be added, that's fine. I don't have a  
9 need for all of it to be in, if nobody needs it all  
10 in. Does that work?

11 MR. VILLA: Yes, Your Honor.

12 THE COURT: Thank you, Mr. Duran.

13 MS. JACKS: Your Honor, before we bring  
14 the jury in, don't we need a witness?

15 THE COURT: Well, at some point we do.  
16 Sometimes they bring the jury in before they bring  
17 the witness. So it looks like we got the jury first  
18 today, then we'll get the witness in.

19 MR. VILLA: I guess, Your Honor, could we  
20 have two copies? One that we could keep as counsel,  
21 and then one that we could provide with redactions?

22 THE COURT: Yes.

23 MR. VILLA: Thank you.

24 MR. DURAN: Are we excused?

25 THE COURT: Yes, you are excused. And I

1 guess, can I hand the originals back to the  
2 Government, and they'll just return them back to the  
3 detention center? Is that okay?

4 MR. VILLA: I'd ask maybe that the U.S.  
5 Marshals do that. I don't think the Government  
6 should have access to it.

7 THE COURT: Fair enough. I'll have the  
8 originals returned to the marshals and they'll  
9 return it to the detention center to Mr. Duran.

10 MR. DURAN: Thank you, Your Honor.

11 THE COURT: Thank you. I appreciate it.  
12 Y'all have a good day. All rise.

13 (The jury entered the courtroom.)

14 THE COURT: All right. Everyone be  
15 seated.

16 Well, good morning, ladies and gentlemen.  
17 I appreciate you being back and on time and ready to  
18 go. I appreciate counsel being here and the parties  
19 ready to go. I appreciate the way everybody has  
20 gone about their task.

21 Hope you had a good weekend. I got to go  
22 to New York. I've got two boys in New York. We  
23 left -- I worked in Wall Street in 1980, and my wife  
24 and I are both from Hobbs. We decided to come back  
25 to New Mexico. We thought that was a better place



1 to raise our children. Now we've got two boys  
2 living in Brooklyn, so go figure. But they made me  
3 buy them a steak at Delmonico's, which is New York's  
4 oldest restaurant. 1836, 1837. And, of course, my  
5 card got hacked on Thursday of last week, so they  
6 didn't honor my card. So I thoroughly embarrassed  
7 myself. I knew that there might be problems  
8 traveling, so I had cash. It was a little bit of an  
9 adventure.

10 I hope you had a good weekend. It was  
11 good to see my son who got his dissertation  
12 successfully defended. That was a big event. He  
13 started that adventure in 2001, when he got out of  
14 the Albuquerque Academy. So it's been a long  
15 adventure. So I had a good weekend. I hope you did  
16 too.

17 All right. Mr. Armenta, I'll remind you  
18 that you're still under oath.

19 THE WITNESS: Okay.

20 THE COURT: Ms. Jacks, if you wish to  
21 continue your cross-examination, you may do so.

22 MS. JACKS: I do.

23 THE COURT: Ms. Jacks. You're sounding  
24 better today.

25 MS. JACKS: I'm much better.

1 THE COURT: You sound better. I'm glad  
2 you're better.

3 Ms. Jacks.

4 JERRY RAY ARMENTA,  
5 after having been previously duly sworn under  
6 oath, was questioned, and continued testifying  
7 as follows:

8 CONTINUED CROSS-EXAMINATION

9 BY MS. JACKS:

10 Q. All right. Mr. Armenta, I want to pick up  
11 where we left off, so hopefully my notes are good  
12 enough so I can remember where we were. And I think  
13 when we stopped on Friday, we were talking about  
14 this letter, Exhibit 757, which was the letter that  
15 you wrote to Mr. Montoya that never actually made it  
16 to him.

17 A. Yes.

18 Q. And you recall this letter; right?

19 A. Yes, ma'am.

20 Q. And I think when we stopped on Friday, we  
21 were almost all the way through with the first page.  
22 You were talking about this section right here about  
23 Red?

24 A. Yes.

25 Q. Do you remember that?

1 A. Yes, ma'am.

2 Q. And you told us that what you were  
3 communicating and what you were intending to  
4 communicate to Mr. Montoya with respect to Red was  
5 that you were telling him that Red was a Government  
6 witness?

7 A. Yeah.

8 Q. And that Red was providing some sort of  
9 information against you and against Mr. Montoya to  
10 the Government?

11 A. He had made a statement, yeah.

12 Q. I want to go on. So let's pick up on, I  
13 think, where we're starting or where we're going to  
14 pick up now and you were reading this, starting  
15 with, "Fuck it, dude." So let's keep going.

16 A. From "Fuck it, dude"?

17 Q. Yeah.

18 A. "Fuck it, dude. It's my life, not the  
19 onda's. So with respect, I love you and I wish you  
20 the best in your decisions you make, and bless and  
21 yours. Oh, and Cheryl Ann passed away in  
22 complications in surgery."

23 Q. Let me just stop you there. Okay?  
24 Because last week I think you testified that this  
25 was a mistake; that you didn't mean to say this

1 about Cheryl Ann.

2 A. No, I said it, but I missed a word there,  
3 misplaced a word there.

4 Q. The word being what, Cheryl Ann had not  
5 passed away?

6 A. Almost.

7 Q. She almost passed away.

8 A. Cheryl Ann almost passed away.

9 Q. Are you talking about Cheryl Ann, your  
10 daughter, or Cheryl Ann, your wife?

11 A. My daughter.

12 Q. Let's keep going with that. So you're  
13 saying you missed a word in that sentence.

14 A. Yes, ma'am.

15 Q. Let's keep on reading about what else you  
16 said about Cheryl Ann.

17 A. "If you hate me, fine, but my hita is gone  
18 forever."

19 Q. Let me stop through. What is a hita?

20 A. My daughter in Spanish.

21 Q. So here you're talking about your daughter  
22 being dead; right?

23 A. Yeah.

24 Q. That's no mistake, is it?

25 A. No, I guess not.

1 Q. Let's keep going.

2 A. "And if it weren't for the amor of this  
3 onda, I would have had some time with her.

4 Q. Okay. That again references the fact that  
5 you're trying to tell Mr. Montoya that your daughter  
6 is dead?

7 A. Yeah.

8 Q. And is it your testimony that that's a  
9 mistake, too?

10 A. That's a mistake, because she was actually  
11 in a coma. My mom had told me that she was in a  
12 coma, and she was pretty close to death.

13 Q. Were you trying to tell Mr. Montoya that  
14 your daughter died so that he would have some sort  
15 of sympathy for you?

16 A. No. I was letting him know what was going  
17 on, because I let him know about everything that was  
18 going on with my family.

19 Q. Well, you lied to him, didn't you, in this  
20 letter?

21 A. About what?

22 Q. About your daughter being dead.

23 A. It was a mistake. I said she almost  
24 passed away.

25 Q. Well, it's a mistake that you made three

1 or four times in writing the letter, isn't it?

2 A. Yeah.

3 Q. And you're sticking by that testimony  
4 under oath that that's a mistake?

5 A. It was a mistake.

6 Q. Let's read the rest of the letter.

7 A. "Think about what's more important to you,  
8 dog. I love you, man. My family means more to me.  
9 There is no future for the onda. Save yourself,  
10 dude, for real. Jerry Armenta."

11 Q. And how did you sign it?

12 A. Jerry Ray Armenta.

13 Q. What's your Stunna man?

14 A. It's a little word he used to call me  
15 because of the music we listened to.

16 Q. And then -- well, let me just go back for  
17 a second. You talked about your "family means more  
18 to me. There is no future for the onda," meaning  
19 your family means more to you; there is no future  
20 for the gang?

21 A. There is no future for me in the gang.

22 Q. Well, there is no future for you and your  
23 family; right?

24 A. Well, that's to be determined.

25 Q. Well, we discussed that last week.

1 A. That's to be determined.

2 Q. Why would you be misrepresenting the  
3 situation with your daughter and your family to Mr.  
4 Montoya in this letter?

5 A. To let him know I've had enough of what is  
6 going on in the onda, and that I'm not going to let  
7 the onda come first in front of my family anymore.

8 Q. Did you think if you told him those  
9 things, that he would then back your story that  
10 you're communicating to him in this letter?

11 A. No, I just told him that I had enough,  
12 that this almost happened to my daughter. Then for  
13 this onda I almost missed out on her life. I still  
14 am, but she's still alive, though, now.

15 Q. Well, you missed out on her life --

16 A. A lot.

17 Q. -- not because of the gang, but because of  
18 your conduct with your stepdaughter; right?

19 A. No.

20 Q. How did you -- what are the two little  
21 things at the end of the letter?

22 A. "Am I going to go down for some bullshit?  
23 Nope."

24 Q. What does that refer to? The murder of  
25 Javier Molina?

1 A. Yes, and the onda.

2 Q. So you think that's bullshit?

3 A. Yeah, because it is bullshit, what  
4 happened.

5 Q. And then?

6 A. And then, "Am I gonna get it right, home  
7 with the fam? Yup."

8 Q. So again, talking about how you're going  
9 to get out of prison or get out of jail and end up  
10 back with your family?

11 A. Yep.

12 Q. Your family that includes the  
13 14-year-old --

14 A. No.

15 Q. -- that you sexually abused?

16 A. No. That family, that part, is already  
17 done and over with.

18 Q. Now, I think, if I heard you right on  
19 Friday, when the Government was asking you  
20 questions, you said that this letter, this Exhibit  
21 757 -- I'm just going to put it back up so it's  
22 clear what we're talking about -- was a letter that  
23 was the result of your communication with somebody  
24 who really cared. Do you recall that testimony?

25 A. Somebody who really cared.



1 Q. Right. At the time that you wrote this  
2 letter -- this was sometime in the spring of 2015?

3 A. No, this was in September of 2015.

4 Q. At the time that you wrote this letter,  
5 prior to writing this letter, had someone approached  
6 you and talked to you about getting back to your  
7 family?

8 A. That would be in the winter of 2015,  
9 February.

10 Q. And who was that?

11 A. Eric Duran.

12 Q. Oh, and where was it? Eric Duran is a  
13 Government witness; right?

14 A. Yes, ma'am.

15 Q. And where was it that you encountered Eric  
16 Duran?

17 A. It was in 3-A, unit 3-A, R pod in Santa Fe  
18 at the North facility.

19 Q. Okay. So at PNM North, unit 3-A, R pod?

20 A. Yes, ma'am. Yes.

21 Q. He was an inmate that was housed near you?

22 A. We were neighbors.

23 Q. And what was it -- well, I think when  
24 we -- when you testified on Friday, you made some  
25 comment that you spoke with Duran for a couple of

1 weeks. Is that accurate?

2 A. We talked every day. We talked end on end  
3 for months, every day.

4 Q. And during those conversations -- the  
5 results of your conversations with Duran is you  
6 asked him to set up a meeting with you and the  
7 Security Threat Intelligence Unit?

8 A. No, I did not ask him anything like that.

9 Q. Okay. Well, was there a meeting that you  
10 requested with the Security Threat Intelligence  
11 Unit?

12 A. He told me that he could send me in the  
13 right direction to talk to some people. And yes,  
14 there was a little two-, three-minute questions that  
15 they asked me to see if I was real about talking to  
16 the State Police and the district attorney, and I  
17 said yes. And the officers.

18 Q. Answer the question, Mr. Armenta. On  
19 Friday I thought that you said that after you spoke  
20 with Duran for this period of weeks, that Duran made  
21 a phone call?

22 A. Well, he made a phone call or however he  
23 contacted them to let them know that, yes, I was  
24 ready to go speak.

25 Q. Okay. Did Duran have a phone in his cell

1 at PNM North?

2 A. He had a direct phone number that we have  
3 on the phone, the regular prison phones and you can  
4 call the STIU off them phones.

5 Q. Okay. So he actually used the jail phone,  
6 the PNM phone, to call somebody in the Security  
7 Threat Intelligence Unit and tell them that you  
8 wanted to set up a meeting with them?

9 A. Yes, that I wanted to speak with them.

10 Q. And prior to making that call, had Duran  
11 been encouraging you to speak with the Security  
12 Threat Intelligence Unit?

13 A. No, not encouraging me. He asked me a  
14 question about what was more important to me, and I  
15 told him, and he said, "Well, what if I can help  
16 you?"

17 And I said, "What do you mean?"

18 And he goes, "Well, do you want to do the  
19 right things?"

20 And when he said that, I said, "Yeah, I  
21 do. I need to get away from this. I need to get  
22 out of here."

23 And he said he'll make the call for me,  
24 talk to the right people.

25 Q. Now, prior to making the call, had

1 Mr. Duran discussed with you the fact that he was  
2 expecting to receive monetary benefits from the  
3 Government by being a Government witness?

4 A. I knew nothing about that at that point.

5 Q. Okay. Then you just need to answer the  
6 question. The answer is no?

7 A. No, I didn't know.

8 Q. Okay. Prior to making the call, had he  
9 talked to you about the fact that he was expecting  
10 improved conditions of confinement by becoming a  
11 Government witness? For example, having contact  
12 visits with his family?

13 A. No.

14 Q. Or getting more phone calls?

15 A. No.

16 Q. Or getting better food?

17 A. No.

18 Q. Had he talked to you about the fact that  
19 he expected to get time shaved off of his state  
20 sentence that he was doing?

21 A. No.

22 Q. Had he talked to you about other help that  
23 he might receive in terms of avoiding criminal  
24 consequences of his behavior?

25 A. No.

1 Q. On Friday -- well, had he talked to you  
2 about any benefits that he was supposed to get or  
3 receive as a benefit -- as a result of being a  
4 Government witness?

5 A. No. When all this started, no, he didn't  
6 tell me anything about that. I didn't know anything  
7 he was doing.

8 Q. Okay. And I don't want to just limit it  
9 to when all this started, because you've even said  
10 that you talked with Duran over a period of weeks;  
11 right?

12 A. Um-hum.

13 Q. Is that yes?

14 A. Oh, after the indictment?

15 Q. So my question -- no, my question is:  
16 During this time that you were talking to Duran  
17 prior to him placing the call to the Security Threat  
18 Intelligence Unit, was there any discussion about  
19 any sort of positive benefits that he expected to  
20 flow towards him?

21 A. No, none at all.

22 Q. Now, on Friday -- and I don't want to  
23 misquote you -- but I have in my notes that when  
24 Duran made this phone call, the purpose of the call  
25 was to set up a meeting with the Security Threat

1 Intelligence Unit to chat -- for you to chat with  
2 them to see if he was -- and this is the quote I  
3 wrote down -- "to see if he was serious about what  
4 he offered." Do you recall that testimony on  
5 Friday?

6 A. If Eric Duran was serious about what he  
7 offered?

8 Q. Well, the way I interpreted the statement  
9 was to see if Eric Duran was telling you the truth  
10 about what he was being offered.

11 A. I don't think, no.

12 Q. What did you mean by the fact that this  
13 meeting with STIU was to see if somebody was serious  
14 about what he offered?

15 A. I think you got it misinformed. I think  
16 he called and let them know that I was serious about  
17 what I wanted to do.

18 Q. I mean, it's possible, I'll have to go  
19 back and read the testimony. But your testimony  
20 today is that when Duran contacted STIU and you went  
21 into that meeting with STIU, it wasn't about seeing  
22 what sort of benefits might come your way if you  
23 became a Government witness?

24 A. No.

25 Q. Is it fair to say that after your

1 interaction with Duran, that's when you came up with  
2 the version of events that you've testified to in  
3 court here regarding the Molina homicide?

4 A. Yeah, yes.

5 Q. And in that version of events, you're  
6 claiming that it was Mr. Sanchez that made you kill  
7 Mr. Molina?

8 A. Yes, ma'am.

9 Q. Now, on Friday -- I want to talk a little  
10 bit about what you told us about the events of March  
11 6 and 7, 2014; so what you've testified here in  
12 court about regarding the day before and the day of  
13 the Molina homicide.

14 A. Yes, ma'am.

15 Q. Okay. So Friday -- and the first thing I  
16 want to ask you about is about what happened on  
17 March 6 when Lupe Urquizo and Mauricio Varela first  
18 arrived at Southern New Mexico Correctional  
19 Facility. Okay?

20 A. Yes.

21 Q. And what I recall you saying last week was  
22 that you saw those two, Urquizo, Varela and a guy  
23 that you knew as Cartoon come through the sally port  
24 into unit 1-A. Do you remember that testimony?

25 A. Yes, ma'am.

1 Q. And that I think you said Blue and Red ran  
2 to the door between the pods, asking about  
3 paperwork. "Do you have it? Let me see it."

4 A. I didn't hear them asking about paperwork  
5 or nothing. They just walked to the door and they  
6 started talking with them. I heard Mr. Rodriguez  
7 say, "Oh, you have it. Let me see it."

8 And that's all I know. I didn't know if  
9 it was paperwork. I don't know anything about what  
10 it was.

11 Q. What I want to ask you about is who went  
12 at that point to the door between blue pod and  
13 yellow pod.

14 A. Mr. Rodriguez and Mr. Martinez.

15 Q. Okay. So Blue is Mario Rodriguez?

16 A. Yes, ma'am.

17 Q. And Red is Timothy Martinez?

18 A. Yes.

19 Q. And that was on, according to you, March 6  
20 of 2014 when right after or right as Urquizo, Varela  
21 and this guy Cartoon were brought into the unit?

22 A. Yes, ma'am.

23 Q. And is there any doubt or is there any  
24 wavering whatsoever, with respect to this version of  
25 events, that Timothy Martinez was present for that



1 conversation?

2 A. He was there.

3 Q. Definitely?

4 A. He was there, yes.

5 Q. And according to you, what time or  
6 approximately when in the day on March 6 was this  
7 conversation between blue pod and yellow pod that we  
8 just talked about?

9 A. I can't exactly be sure. I think it was  
10 in the afternoon -- I want to say the afternoon.

11 Q. So sometime after lunch?

12 A. And before dinner.

13 Q. And you get locked down for count before  
14 dinner; right?

15 A. Yes.

16 Q. And what time is that lockdown?

17 A. 4:00.

18 Q. And you get -- did you also get locked  
19 down for lunch in your cell?

20 A. Yes, at 11:00.

21 Q. And then that lockdown is until noon?

22 A. Yes.

23 Q. So according to you, this interaction was  
24 sometime between noon, when you were released after  
25 lunch, and 4:00?

1 A. Yes, ma'am.

2 Q. Can you be any more specific?

3 A. I can't.

4 Q. Okay.

5 A. I do not know exactly what time it was.

6 Q. But you're saying it's definitely between  
7 noon and 4:00 p.m.?

8 A. Yes.

9 Q. On March 6?

10 A. Yes.

11 Q. All right. Now I want to move to the next  
12 day, because you testified that the next morning,  
13 around 10:00 in the morning, blue pod went to rec.

14 A. Yes.

15 Q. Do you recall that testimony last week?

16 A. The whole unit went to rec, but we all had  
17 our different cages.

18 Q. Okay. Blue, green, and yellow?

19 A. Yellow.

20 Q. And I think it was your testimony last  
21 week that you came back from rec and there was a  
22 lockdown for lunch?

23 A. Yes.

24 Q. And then it was sometime after lunch that  
25 you say you saw Mario Rodriguez go to the door

1 between blue pod and yellow pod and get something  
2 from underneath the door?

3 A. Yes.

4 Q. So you recall that testimony?

5 A. Yes.

6 Q. And you're telling us that that testimony  
7 is correct in terms of what you meant to testify to?

8 A. Yes, ma'am.

9 Q. I didn't misunderstand it?

10 A. No.

11 Q. Now, whatever it was that you're claiming  
12 was passed under the door, is it your testimony that  
13 you saw it?

14 A. Yes, I saw that it was paper.

15 Q. Was it paper, just loose paper, like white  
16 sheets of paper?

17 A. It was a couple of sheets of just loose  
18 paper.

19 Q. And how far were you from that door when  
20 you're saying that you saw it passed under the door?

21 A. About 10 to 15 feet.

22 Q. Okay. Your testimony is you had a clear  
23 view?

24 A. Yeah.

25 Q. There was no -- there is no doubt in your

1 mind that that's what you saw, a few sheets of loose  
2 paper?

3 A. Yes.

4 Q. And did you ever see it more closely than  
5 that?

6 A. No.

7 Q. Did you ever get a chance to look at it or  
8 read it?

9 A. No.

10 Q. And when you're saying that you saw this  
11 happen, was he alone? Is your testimony that he was  
12 by himself, or was somebody else at the door with  
13 him?

14 A. He was by himself.

15 Q. Okay. Let me specifically direct you to  
16 Timothy Martinez. Was Timothy Martinez with Mr.  
17 Rodriguez when these few loose sheets of paper were  
18 supposedly passed under the door?

19 A. No.

20 Q. Now, we talked a little bit last week  
21 about some of your prior statements and testimony  
22 about these events. Do you recall that?

23 A. Yes.

24 Q. And specifically I want to talk to you  
25 about this deposition. I think I showed you some

1 pages from the deposition that was taken on  
2 September 1st, 2015.

3 A. Yes, ma'am.

4 Q. And that was in connection with the state  
5 case; right?

6 A. Yes, ma'am.

7 Q. And there was a representative of the  
8 prosecution there; right?

9 A. Yes.

10 Q. Mr. Dougherty, the DA?

11 A. Yes, ma'am.

12 Q. And there was a lawyer for Mr. Montoya  
13 there?

14 A. Yes.

15 Q. And your lawyer was there; right?

16 A. Yes.

17 Q. And you agreed to answer questions; right?

18 A. Yes.

19 Q. Did you testify at that deposition --  
20 referring Court and counsel to page 17 of that  
21 deposition -- that the transfer of this paperwork  
22 you were saying happened occurred before lunch?

23 A. I don't believe I did.

24 Q. Have you had a chance to review that whole  
25 deposition?

1 A. No.

2 Q. So if I approached you with that section,  
3 do you want to take a look at it and see if maybe  
4 that refreshes your memory about what that says?

5 A. Sure.

6 MR. CASTELLANO: For the record, I don't  
7 think it was a deposition. It was definitely  
8 questioning, but not a deposition. There's a  
9 difference.

10 THE COURT: I'll let you work with that on  
11 redirect. Overruled.

12 MS. JACKS: That's what I thought it was.

13 BY MS. JACKS:

14 Q. I'm going to move forward, Mr. Armenta,  
15 and find that and bring that up to you in a minute,  
16 because I want to ask you some more questions about  
17 that deposition. Maybe I'll give you a chance to  
18 look at it at a recess.

19 A. Okay.

20 Q. Or I'm going to call it a pretrial  
21 interview. Okay? This was the interview where you  
22 had sent the letter to Mr. Montoya's lawyer, right,  
23 about become a witness for Mr. Montoya?

24 A. I sent it to Montoya and he sent it to his  
25 lawyer.

1 Q. But the letter was addressed to the  
2 lawyer; right?

3 A. I guess, yeah. I gave it to Jerry  
4 Montoya. I wrote it for him. What he did with it  
5 after that, that was his business.

6 Q. Can we have 756? I don't think I pulled  
7 that out.

8 Here's the letter, 756. Do you want to  
9 read the first line of the letter?

10 A. Yeah. The introduction is to him, to the  
11 lawyer.

12 Q. This letter is to the lawyer of Jerry  
13 Montoya?

14 A. Yeah.

15 Q. Okay. And as a result of this letter,  
16 Exhibit 756, there was an interview that was set up;  
17 right?

18 A. Yeah, by Mr. Montoya's attorney.

19 Q. That included the district attorney?

20 A. Yes.

21 Q. And that actual interview took place on  
22 September 1st of 2015?

23 A. Yes.

24 Q. That's what I'm talking about.

25 Now, you told us just a few minutes ago

1 that, according to your testimony here today,  
2 Timothy Martinez was not present at the door between  
3 the pods when these papers were supposedly passed  
4 under.

5 A. No.

6 Q. He was not there?

7 A. No.

8 Q. Okay. Back on September 17 of 2015, did  
9 you have an interview with FBI Agent Joseph Sainato,  
10 U.S. Attorney Maria Armijo, and other members of law  
11 enforcement?

12 A. Yes.

13 Q. And during that interview, did you talk  
14 with them about this alleged passing of paperwork?

15 A. Yes, I did.

16 Q. And during that interview, did you tell  
17 them that the paperwork was passed to Timothy  
18 Martinez and Mario Rodriguez?

19 A. No.

20 Q. Now, I want to ask you a little bit more  
21 about your testimony last week. Because last week  
22 you testified that after this paperwork, after you  
23 saw these papers passed, that there was a phone  
24 yard -- the pod was offered the opportunity to go to  
25 phone yard. Do you recall that testimony?



1 A. Yes, ma'am.

2 Q. And I think you told us that Mario  
3 Rodriguez stayed in from phone yard that day?

4 A. Yes.

5 Q. And you recalled a particular detail that  
6 he had a curtain up in his cell window?

7 A. Yes.

8 Q. The truth is that last week, last Friday,  
9 that's the first time you ever told that to anybody,  
10 isn't it?

11 A. Possibly, yeah.

12 Q. Okay. Because you've had numerous  
13 interviews with law enforcement, haven't you?

14 A. Yes.

15 Q. Did you tell that to law enforcement on  
16 March 8, 2014?

17 A. I'm not sure.

18 Q. Did you tell it to law enforcement on  
19 March 10th, 2014?

20 A. No.

21 Q. Did you tell -- did you tell it to anybody  
22 during your pretrial interview on September 1st,  
23 2015?

24 A. No.

25 Q. Did you tell it to anybody during your

1 interview with law enforcement on September 17,  
2 2015?

3 A. No.

4 Q. Did you tell it to anybody during your  
5 interview with law enforcement on October 6, 2015?

6 A. No.

7 Q. Did you tell it to anybody during your  
8 interview with law enforcement on January 22, 2018?

9 A. No.

10 Q. So the first time you ever said anything  
11 about Mario Rodriguez not going to phone yard and  
12 hanging a towel up in his cell was last Friday?

13 A. Yeah.

14 Q. Now, last Friday you also testified that  
15 at some point prior to stabbing Mr. Molina, you went  
16 to Mario Rodriguez's cell and he provided you a  
17 weapon. Do you recall that testimony?

18 A. Yes, I do.

19 Q. And during that time, it's your testimony  
20 that he showed you how to use it?

21 A. Yeah.

22 Q. With respect to how to wrap the --

23 A. Wrap it around my wrist and stuff like  
24 that, yes.

25 Q. Okay. Now, were there any other witnesses

1 present in Mario Rodriguez's cell, according to you,  
2 when that occurred?

3 A. No.

4 Q. So you were alone?

5 A. Me and Mario Rodriguez, yes.

6 Q. The only two people in the cell when that  
7 happened --

8 A. Yes.

9 Q. -- were you and Mario Rodriguez?

10 A. Yes, ma'am.

11 Q. I want to go back to the questions that I  
12 was asking about the phone call that Mr. Duran was  
13 going to make to STIU to set up an interview with  
14 him.

15 A. Okay.

16 Q. Okay? Because I actually have the  
17 transcript of what you testified to last week. So  
18 I'm going to read you the question and answer, and  
19 then I'm going to ask you to tell me what you were  
20 talking about in your answer.

21 A. Okay.

22 Q. Okay. So the question from the prosecutor  
23 was: "Eventually, did you on your own or did  
24 Mr. Duran point you in the right direction in terms  
25 of who you could talk to?"

1           And the answer by you: "Mr. Duran made a  
2 phone call, and let the right people know to pull me  
3 out of the pod and have a little chat with them to  
4 see if I was serious about what he had offered, and  
5 I did that."

6           A.    Oh, okay, yeah.

7           Q.    Do you recall that testimony last week?

8           A.    Yes.

9           Q.    So my question is: What were you talking  
10 about? And in particular, when you said "to have a  
11 little chat with them to see if I was serious about  
12 what he had offered"?

13          A.    So when I said that, what I meant was to  
14 see if he was serious, I needed to see if he was  
15 serious about sending me to the right people to talk  
16 and get my way in to discuss what happened for the  
17 Javier Molina murder.

18          Q.    To see if Duran was serious?

19          A.    Yeah.

20          Q.    Okay. Had Duran basically told you that  
21 if you participated with the Security Threat  
22 Intelligence Unit and became a Government witness,  
23 that they could do a little something for you in the  
24 case?

25          A.    No, he just said to "Help yourself."

1 Q. So it was vague about what your benefit  
2 might be?

3 A. Just, yeah, "Help yourself. Help yourself  
4 to do the right thing."

5 Q. So the -- what he had offered was that  
6 you, by doing this, would be able to help yourself  
7 in some manner?

8 A. Yes.

9 Q. And you made -- had the meeting with STIU  
10 to see if Duran was really serious about that?

11 A. Yes.

12 Q. Okay. I want to approach you with two  
13 pages of this pretrial interview. So I want to go  
14 back to the point of whether previously in this  
15 pretrial interview on September 1st you said that  
16 this supposed transfer of paperwork happened prior  
17 to lunch. Okay? And I'm going to give you two  
18 pages, pages 16 and 17. Just take a moment to read  
19 that, Mr. Armenta, because you kind of have to read  
20 almost all of both pages to understand the point.

21 A. Okay.

22 Q. Have you had a chance to look at it?

23 A. Yes, ma'am.

24 Q. And did that refresh your memory to some  
25 extent about what you said about during that

1 pretrial interview on September 1st, 2015?

2 A. Yes.

3 Q. I'm going to come back and get those pages  
4 from you, because I just want to ask you a couple of  
5 questions. During that interview on September 1st,  
6 2015, did you talk about seeing the paperwork passed  
7 under the door?

8 A. I did.

9 Q. And did you say that after that happened  
10 you went to lunch?

11 A. Went to lockdown.

12 Q. For lunch?

13 A. For lunch.

14 Q. So the lockdown for lunch happens about  
15 11:00 a.m.; right?

16 A. Yes.

17 Q. So in this pretrial interview, when you  
18 talked about the passing of paperwork, you talked  
19 about it happening before the lunch lockdown.

20 A. Actually, it doesn't determine when,  
21 before or after.

22 Q. Okay. You don't think it's specific as to  
23 when?

24 A. No. All I know is what it says there is  
25 that it was passed, but it didn't say before or

1 after lunch. I didn't determine that right there.

2 Q. You weren't directly asked the question  
3 about the timing; right?

4 A. Right.

5 Q. And you were talking about seeing the  
6 paperwork, and after you say that you saw the  
7 paperwork the next thing that happened, according to  
8 your answers to the questions in the pretrial  
9 interview, there was then a lockdown for lunch?

10 A. Yeah. But prior to that, I said that we  
11 were outside in the yard playing basketball and  
12 handball, whatever.

13 Q. Correct.

14 A. So then we come back in and we go to  
15 lockdown for lunch. Then we come out and go to yard  
16 again, and then come back in for dinner count.

17 Q. I think you've made that clear. My only  
18 point -- or my only question was: Isn't there a  
19 difference between what you said here or what you  
20 said in court here on Friday, that the paperwork  
21 was -- that you say you saw the paperwork passed  
22 after you got unlocked from the lunch lockdown, to  
23 what you said in this pretrial interview where you  
24 claim the paperwork was passed and then there was  
25 the lockdown for lunch?

1           A.     If they would have asked me what time, I  
2     would have told them what I said Friday.

3           Q.     I'm going to ask you about another letter  
4     that I think you're a signatory to.

5           MS. JACKS: Can I approach? We have  
6     Exhibit EJ, and I want to give a copy to the witness  
7     to see if he knows what it is.

8           THE COURT: You may.

9           MS. JACKS: This has been previously  
10    marked but not yet entered into evidence.

11   BY MS. JACKS:

12          Q.     So Mr. Armenta, showing you what's been  
13    marked as Exhibit EJ, I just want you to take a look  
14    at that letter and, first of all, tell us if it's  
15    something that you're familiar with. And it's two  
16    pages, so take your time.

17          A.     Okay. Yeah, I remember.

18          Q.     Is this a letter -- are you a signatory to  
19    this letter?

20          A.     Yes.

21          Q.     And did you participate in the writing of  
22    this letter?

23          A.     Not really. Because the person that wrote  
24    it, he is really intelligent with words and  
25    vocabulary and stuff, so he wrote it.



1 Q. Who wrote it?

2 A. Frederico Munoz.

3 Q. So would you agree with me that this is a  
4 letter that's signed by five Government witnesses?

5 A. Yes.

6 Q. And you're the first one listed; right?

7 A. Yes, ma'am.

8 Q. And did you agree -- did the Government --  
9 at the time of this letter, were the Government  
10 witnesses housed together?

11 A. Yes.

12 Q. Were these five Government witnesses?

13 A. Yes, ma'am.

14 Q. And at the time of this letter, did the  
15 Government witnesses discuss among each other  
16 requesting the warden of the Penitentiary of New  
17 Mexico to have a banquet?

18 A. Yes, we did.

19 Q. For them and their families?

20 A. Yes, we did.

21 Q. And did they make that request in the form  
22 of a letter?

23 A. Yes, we did.

24 Q. And is this Exhibit EJ dated August 26,  
25 2016, a true and correct copy of the letter that was

1 prepared to request the banquet?

2 A. Yes, ma'am.

3 MS. JACKS: Your Honor, I'd ask at this  
4 juncture that Exhibit EJ be admitted.

5 THE COURT: Any objection, Mr. Castellano?

6 MR. CASTELLANO: Your Honor, may I review  
7 the document?

8 MS. JACKS: Sure. I have a copy of it.

9 MR. CASTELLANO: Thank you, Your Honor.  
10 No objection.

11 THE COURT: Any objection from any  
12 defendant?

13 MS. FOX-YOUNG: No objection.

14 MS. DUNCAN: No, Your Honor.

15 THE COURT: Not hearing any objection.  
16 Defendants' EJ will be admitted into evidence.

17 (Defendants' Exhibit EJ admitted.)

18 MS. JACKS: Thank you, Your Honor. May I  
19 publish?

20 THE COURT: You may.

21 BY MS. JACKS:

22 Q. Can you see that on your monitor,  
23 Mr. Armenta?

24 A. Yes, ma'am.

25 Q. I just want to go through the

1 circumstances of this letter. So at the time of  
2 this letter -- let's go to the second page. The  
3 letter is signed by you; right?

4 A. Yes.

5 Q. Benjamin Clark. That's another Government  
6 witness?

7 A. Yes.

8 Q. Billy Cordova?

9 A. Yes, ma'am.

10 Q. Another Government witness?

11 A. Yes, ma'am.

12 Q. Robert Martinez, another Government  
13 witness?

14 A. Yes, ma'am.

15 Q. And Frederico Munoz, another Government  
16 witness?

17 A. Yes, ma'am.

18 Q. And at the time of this letter, which is  
19 August 26 of 2016, had you all been housed in the  
20 same unit together?

21 A. Yes.

22 Q. And for approximately how long, if you  
23 know?

24 A. All of us together there on that list  
25 since May of that year.

1 Q. And the letter was addressed to the warden  
2 of the Penitentiary of New Mexico?

3 A. Yes, ma'am.

4 Q. And what was it requesting specifically?

5 A. To have a day for ourselves and our  
6 families to have a little get-together, banquet.

7 Q. And you requested that certain people be  
8 invited?

9 A. Yes.

10 Q. And the people that you wanted to be  
11 invited are listed in the letter?

12 A. Yes.

13 Q. And it includes high-ups from the New  
14 Mexico Department of Corrections?

15 A. Yes, ma'am.

16 Q. And members of law enforcement?

17 A. Yes, ma'am.

18 Q. And the prosecution team?

19 A. Yes, ma'am.

20 Q. Now, did Frederico Munoz take primary  
21 responsibility for drafting the letter?

22 A. Yeah, we picked him. We asked him to  
23 write it, and he said he would, because he's, you  
24 know, like I said, he has a very extensive  
25 vocabulary and has a good way with words.

1 Q. But did all of you sign onto the idea?

2 A. Yes.

3 Q. And did all of you sign off on the letter  
4 that Mr. Munoz prepared?

5 A. Yes.

6 Q. And how was -- did you guys actually type  
7 this letter?

8 A. No.

9 Q. Was it provided to somebody to type?

10 A. It was provided for somebody to type.

11 Q. And who was that?

12 A. That was Professor Bob Robinson.

13 Q. A professor?

14 A. Yes.

15 Q. So somebody that was coming into the  
16 prison to give you some sort of educational  
17 programming?

18 A. Yes, ma'am.

19 Q. And he took the handwritten letter of Mr.  
20 Munoz --

21 A. Yes.

22 Q. -- and typed it up and forwarded it to the  
23 Warden for you?

24 A. Yes.

25 Q. Okay. Now, I want you -- why don't you

1 start with just the first paragraph after, "Sir,"  
2 and read what was written in that letter.

3 A. "Your inmates on federal holding in PNM  
4 North Housing Unit 2-A, L pod, cordially and  
5 respectfully request an event to celebrate our  
6 continued participation in the joint effort of New  
7 Mexico Corrections Department and the FBI in the  
8 historic prosecution of the SNM Prison Gang.

9 "We would very much like this event to be  
10 a banquet that includes our families, New Mexico  
11 Corrections Department administrators and staff, and  
12 relevant law enforcement personnel, as noted below."

13 Q. Okay. You can keep going. I'll stop you.

14 A. "Each us made the decision according to  
15 his conscience to reject the beliefs and values that  
16 motivated our shameful involvement in the SNM. Now  
17 we individually desire to become full and  
18 responsible participants in our society. And our  
19 involvement in the prosecution of the SNM springs  
20 from these decisions."

21 Q. Let me just stop you there. So when  
22 this -- when you signed onto this sentence that Mr.  
23 Munoz wrote, was it your true state of mind that you  
24 individually desired to become a full and  
25 responsible participant in society?

1 A. Yes, I want to be.

2 Q. That wasn't my question. My question is:  
3 When you signed on to this letter, was that in truth  
4 your state of mind?

5 A. Yeah.

6 Q. And had you made a decision according to  
7 your conscience to reject the beliefs and values  
8 that motivated your shameful involvement in the SNM?

9 A. Yes, I did.

10 Q. You can keep going. I think you are at  
11 "We are proud."

12 A. "We are proud of our cooperation with the  
13 NMCD and the FBI, and we would enjoy an occasion to  
14 commemorate it and our continued improvement with  
15 those involved and our families.

16 "It is our desire to express our genuine  
17 gratitude and respect for all of the Corrections  
18 administrators and staff and law enforcement  
19 personnel responsible for our current and wonderful  
20 circumstances."

21 Q. Let me just stop you right there. At the  
22 time of this letter, did you consider your current  
23 circumstances of incarceration, quote, "wonderful"?

24 A. Yes.

25 Q. And were those "wonderful circumstances"

1 things that you got as a benefit of being a  
2 Government witness?

3 A. Yes.

4 Q. And at the time that this letter was  
5 written, was it your desire, your personal desire,  
6 to express gratitude and respect for corrections  
7 administrators and staff?

8 A. Yes.

9 Q. Okay. You can go on. "We believe."

10 A. "We believe our requests and agreements  
11 have been and will continue to be honored to the  
12 extent that is possible, and we are treated with  
13 more respect and dignity than many of us have known  
14 in some time.

15 "It would also be a great benefit to us  
16 and our families to witness our positive  
17 relationships with the corrections officials and  
18 staff and law enforcement personnel. Our families  
19 have an unfair and negative perception of these  
20 entities because of how our behaviors have degraded  
21 their perceptions. We believe a banquet event would  
22 make significant progress in altering their  
23 perceptions for the better.

24 "We are aware that it is difficult to  
25 schedule events such as this. For this reason, we



1 make this request well in advance of a suggested  
2 event date before or after the Thanksgiving holiday.

3 In addition, while our resources are limited, we  
4 are willing to shoulder the food-related expenses  
5 for the event."

6 Q. I'm going to stop there, because we can  
7 see then the next part is really who you're inviting  
8 from correction and law enforcement and the  
9 prosecution team; right?

10 A. Yes, ma'am.

11 Q. As a result of this letter, which is  
12 Defendants' Exhibit EJ, were you given this banquet?

13 A. Yes.

14 Q. And were you given this banquet with  
15 people that you wanted to invite, people from your  
16 family or friends?

17 A. Yes.

18 Q. And when did that actually occur?

19 A. December 23, 2016.

20 Q. I want to move to a different area, okay,  
21 because you told us -- and I want you to correct me  
22 if I'm wrong -- but you told us last week that you  
23 didn't mean to kill Javier Molina?

24 A. I didn't want to.

25 Q. Okay. That wasn't the question.

1 A. But it happened.

2 Q. That wasn't the question. Do you recall  
3 me asking you last week about the statements that  
4 you had made about trying to stab Mr. Molina in such  
5 a way that he wouldn't die?

6 A. Yes.

7 Q. To try to miss any sort of vital organs?

8 A. Yes.

9 Q. I think I asked you directly the question:  
10 Did you mean to kill Mr. Molina? Do you recall  
11 that?

12 A. Yes.

13 Q. And what was your answer?

14 A. No, I did not.

15 Q. Is that still your testimony?

16 A. Yes. Yes.

17 Q. So you didn't mean to kill him, and you  
18 acted in such a way as to try not to stab him so you  
19 would kill him?

20 A. Yes.

21 Q. You just wanted to injure him?

22 A. Yes.

23 Q. And it was your intent that Javier Molina  
24 not die?

25 A. Yes.

1 Q. Now, I want to talk to you a little bit  
2 about your plea agreement. And the Government asked  
3 you some questions about this last week, and I'm  
4 showing you the first page of that. That's  
5 Government's Exhibit 678. You recall your plea  
6 agreement; right?

7 A. Yes.

8 Q. And that plea agreement was negotiated  
9 during the month of December, 2016?

10 A. Yes, ma'am.

11 Q. And you ultimately entered your plea on  
12 December 13, 2016?

13 A. Yes, ma'am.

14 Q. Did you have enough time to go over this  
15 plea agreement with your lawyer?

16 A. Yes.

17 Q. And you do understand what it is or what  
18 crimes it was that you pled guilty to; right?

19 A. Yes, ma'am.

20 Q. And specifically, I'm referring to page 2  
21 of the plea agreement. Specifically you pled guilty  
22 to two criminal offenses; right?

23 A. Yes, ma'am.

24 Q. What was the first one you pled guilty to?

25 A. Conspiracy, conspiracy to murder.

1 Q. Conspiracy to murder Javier Molina; right?

2 A. Yes, ma'am.

3 Q. And the second offense that you pled  
4 guilty to?

5 A. Was murder.

6 Q. Okay. Now conspiracy to murder. Let's  
7 just start with murder. That's an easier one.  
8 Murder is an intentional killing, is it not?

9 A. Yes, ma'am.

10 Q. So it's a killing you mean to do?

11 A. Well, yeah, murder is murder. You kill  
12 somebody.

13 Q. And conspiracy to murder means agreeing  
14 with other people to commit an intentional killing?

15 A. Yeah, there was a few of us that were  
16 involved, so yes.

17 Q. But that's what the nature of conspiracy  
18 is, involving other people?

19 A. Yes.

20 Q. Not just yourself; right?

21 A. Yes, ma'am.

22 Q. So you signed this plea agreement; right?

23 A. Yes, ma'am.

24 Q. I'm showing you the signature page that  
25 includes your signature; right?

1 A. Yes, ma'am.

2 Q. On December 13, 2016, you actually entered  
3 your plea of guilty to conspiracy to murder and  
4 murder in front of a magistrate judge?

5 A. Yes, ma'am.

6 Q. And the statements that you made during  
7 the time that you entered your plea -- those  
8 statements were made under oath, weren't they?

9 A. Yes.

10 Q. So on December 13, 2016, you told a judge  
11 in this court that you intentionally murdered, you  
12 intentionally killed Javier Molina --

13 A. Yes, ma'am.

14 Q. -- right?

15 And you also told the judge in this court  
16 that you agreed with others to intentionally kill  
17 Mr. Molina?

18 A. Yes, ma'am.

19 Q. But your testimony here in this court is  
20 that you didn't intentionally kill him; that you  
21 specifically tried not to kill him; right?

22 A. Yes.

23 Q. So are you telling us that you pled guilty  
24 to crimes you didn't commit?

25 A. I pled guilty to crimes that I committed.

1 Q. Well, so how could it be that you  
2 intentionally meant to kill Mr. Molina, according to  
3 your statements in December of 2016, and now you're  
4 saying it was unintentional?

5 A. Because I'm pleading guilty to murder.

6 Q. Okay. Well, I guess what I'm wondering,  
7 Mr. Armenta, is: Did you plead guilty to murder and  
8 conspiracy to commit murder not because you believe  
9 that you had actually done that, but because that's  
10 what you needed to do to get your Government  
11 benefits?

12 A. No, it's because I am taking my  
13 responsibility.

14 Q. Okay. Well, are you taking  
15 responsibility?

16 A. It's my responsibility.

17 Q. Well, are you taking responsibility here  
18 in this proceeding when you say you didn't mean to  
19 kill him?

20 A. I didn't.

21 Q. I'm sorry?

22 A. I did not mean to kill him.

23 Q. So how are you guilty of murder if you  
24 didn't mean to kill him?

25 A. Because I killed him.

1 Q. The truth is: You agreed with what the  
2 Government wanted you to say so that you can get the  
3 benefits they're offering?

4 A. No. The truth is I killed Mr. Javier  
5 Molina.

6 Q. But the truth is -- you're telling us the  
7 truth is you didn't mean to?

8 A. No, of course not.

9 Q. Well, if you didn't mean to, then you're  
10 not guilty of murder?

11 A. Yes, I am guilty of murder.

12 Q. So you actually did mean to?

13 A. No, not at the time. I did not mean to  
14 kill Mr. Javier Molina.

15 Q. Would you agree with me, Mr. Armenta, that  
16 entering into a plea agreement in federal court is a  
17 serious matter?

18 A. Yes.

19 Q. And if you don't live up to the terms of  
20 the agreement that you made with the Government, you  
21 could end up spending the rest of your life in  
22 prison?

23 A. Yes, ma'am.

24 Q. With no chance of parole?

25 A. Yes, ma'am.

1 Q. Did you take it seriously?

2 A. Yes.

3 Q. Have you taken it seriously since?

4 A. Yes, I have.

5 Q. Let's talk about what happened or sort of  
6 what was going on around December 13 of 2016. Okay?  
7 I think you told us that about 10 days later was  
8 this banquet that you had requested from Corrections  
9 officials?

10 A. Yes, ma'am.

11 Q. For your good behavior?

12 A. Yes, ma'am.

13 Q. And your respect for law enforcement?

14 A. Yes, ma'am.

15 Q. And for your desire to become a good and  
16 contributing member of society?

17 A. Yes, ma'am.

18 Q. Now, at the time of your plea agreement,  
19 had you been receiving money from the federal  
20 government?

21 A. Yes.

22 Q. And was it one payment, or did you get  
23 several payments over time?

24 A. Before that date I had gotten two, I  
25 believe.



1 Q. Two payments?

2 A. Yes.

3 Q. Of how much money, if you know?

4 A. About \$500.

5 Q. Okay. And what about after you entered  
6 your plea agreement? Did you get some additional  
7 money?

8 A. I want to say yeah, but I'm not too, too  
9 sure if I did. I can't remember that.

10 Q. Let me go through this. On July 20, 2016,  
11 were you paid \$200 by the federal government for  
12 your services from January 1st, 2016, to May 31,  
13 2016?

14 A. Yes.

15 Q. And your services were services of being a  
16 Government witness?

17 A. Yes.

18 Q. Were you paid \$300 on September 23, 2016,  
19 for services that you provided between June 1st and  
20 September 19 of 2016?

21 A. Yes, ma'am.

22 Q. And were you paid \$250 on December 22,  
23 2016, for services between December 1st and December  
24 30 of 2016?

25 A. Yeah.

1 Q. Aside from those cash payments, which if  
2 my math is right totals \$750, have you received any  
3 other cash benefits?

4 A. No.

5 Q. You've told us -- or at least you told the  
6 Warden, and I think you've repeated here in court --  
7 that you were provided favorable confinement  
8 conditions for being a Government witness?

9 A. Yes.

10 Q. Conditions that were described in that  
11 letter as wonderful?

12 A. Yes, ma'am.

13 Q. Were you provided contact visits with  
14 either your family or others that you desired to  
15 have them with?

16 A. Yes, ma'am.

17 Q. And were you promised that if you provided  
18 substantial assistance in this prosecution that you  
19 could earn a reduced sentence?

20 A. No, not at the time.

21 Q. You were never promised?

22 A. No, I was never promised, "Oh, if you do  
23 this, you'll get way less time," or anything like  
24 that.

25 Q. My question was that were you promised

1 that if you provided substantial assistance, you  
2 could earn a reduced -- a substantially reduced  
3 sentence?

4 A. "We could help you" is what it was said.

5 Q. Okay. And that was part of your plea  
6 agreement; right?

7 A. Yes.

8 Q. I mean there was this addendum -- this is  
9 Government's Exhibit 679 -- and this is the addendum  
10 to your plea agreement; right?

11 A. Yes, ma'am.

12 Q. And this was entered into the same day as  
13 you pled guilty?

14 A. Yes.

15 Q. December 13 of 2016?

16 A. Yes, ma'am.

17 Q. And this outlines the fact that if you  
18 provide substantial assistance to the Government,  
19 then you could earn a reduced sentence?

20 A. Yes.

21 Q. Get a sentence of less than life in  
22 prison?

23 A. I could.

24 Q. For the murder that you pled guilty to?

25 A. Yes, ma'am.

1 Q. Even though you didn't commit an  
2 intentional killing?

3 A. Yes, ma'am.

4 Q. So Mr. Armenta, while your lawyer was  
5 negotiating this plea agreement -- let's just go  
6 back. Your plea agreement obligates you to promise  
7 to tell the truth?

8 A. Yes, ma'am.

9 Q. And while your lawyer was negotiating this  
10 plea agreement, were you taking advantage of the  
11 benefits you were receiving as a Government witness?

12 A. Yes, I was.

13 Q. Around the time of this plea agreement,  
14 that you were negotiating and signed this plea  
15 agreement, were you acting in such a way as to  
16 demonstrate your -- and I'm quoting from this letter  
17 to the warden -- were you acting in such a way as to  
18 demonstrate your, quote, desire to become a full and  
19 responsible participant in society?

20 A. No, I wasn't.

21 Q. Were you acting in such a way that showed  
22 your, quote, genuine gratitude and respect for the  
23 corrections administrators and staff and law  
24 enforcement personnel?

25 A. No, I wasn't.

1 Q. So that letter, that letter for the  
2 banquet, was just another example of a letter that  
3 was intended to manipulate somebody into getting  
4 what you wanted?

5 A. No, it wasn't manipulation.

6 Q. Well, you made representations in that  
7 letter about how you felt; right? Right?

8 A. Yes, ma'am.

9 Q. And it's easy to say those things, isn't  
10 it?

11 A. Oh, yes.

12 Q. But your actions at and around the time of  
13 the banquet showed otherwise, didn't they?

14 A. Yes, they did.

15 Q. Let's just talk about these wonderful  
16 confinement circumstances that you had, because one  
17 of the benefits that you got was the ability to have  
18 contact visits with your family; right?

19 A. Yes, ma'am.

20 Q. But your family wasn't interested in  
21 having those visits, were they?

22 A. My mom came almost every other week.

23 Q. I'm not referring to your mom.

24 A. I haven't visited them in four years, so  
25 they weren't on my mind to have them come visit.

1 Q. Your wife and children?

2 A. My ex-wife.

3 Q. Your ex-wife, stepchildren, and children?

4 A. My children.

5 Q. So your mother visited you?

6 A. My mother, my fiancée, my nieces, my  
7 stepfather, my sister.

8 Q. Okay. Well, let's talk about this  
9 fiancée, okay. This fiancée -- does she have a  
10 name?

11 A. Her name is Carolyn.

12 Q. And how did you meet Carolyn?

13 A. Through a mutual friend.

14 Q. Well, you met her through Mr. Duran,  
15 didn't you?

16 A. Well, yeah, a mutual friend.

17 Q. The same guy, the same guy that suggested  
18 you go to the STIU and become a Government witness?

19 A. Um-hum.

20 Q. Is that yes?

21 A. Yes, ma'am.

22 Q. The same guy that told you that you could  
23 benefit yourself by working for the Government?

24 A. Yes, by doing the right thing.

25 Q. So he introduced you to this Carolyn?

1 A. Yes.

2 Q. And did you know Carolyn before you ended  
3 up in New Mexico State prison?

4 A. No, I did not.

5 Q. So your relationship with her started  
6 while you were in prison?

7 A. Yes, ma'am.

8 Q. And you were permitted, because of your  
9 status as a Government witness, to have contact  
10 visits with her?

11 A. Yes.

12 Q. And I think you told us last week that she  
13 came and participated in these visits with you?

14 A. Yes.

15 Q. At two different institutions?

16 A. Yes.

17 Q. What was the first place?

18 A. Grants, New Mexico.

19 Q. And then in Santa Fe?

20 A. Yes, ma'am.

21 Q. And there were contact visits at both  
22 locations?

23 A. Yes, ma'am.

24 Q. How many times did this woman you met  
25 while you were in prison, through Eric Duran -- how

1 many times did she come and visit you?

2 A. I would say about 12, 13 times; 15 times,  
3 maybe.

4 Q. Twelve to fifteen times?

5 A. Yes.

6 Q. Okay. And at some point, those visits --  
7 she stopped visiting you; right?

8 A. No.

9 Q. Well, did she -- at some point, weren't  
10 her visits with you terminated by law enforcement?

11 A. They just stopped. We got transported the  
12 next week. They said they were canceled  
13 indefinitely for all the contact visits. They could  
14 still come, but it would be through a glass.

15 Q. So let's talk about the visits at Santa  
16 Fe.

17 A. Okay.

18 Q. You told us Friday that you abused the  
19 terms of the contact visits in Santa Fe.

20 A. Yes, ma'am.

21 Q. Did you also do that at Grants?

22 A. No.

23 Q. Okay. It just started at Santa Fe?

24 A. Yes.

25 Q. Now, where do the visits with Carolyn --



1 where were you permitted to visit with her in Santa  
2 Fe?

3 A. In an attorneys' cubicle room.

4 Q. It's the same kind of room where you would  
5 visit with your lawyer?

6 A. Yes.

7 Q. Is it the exact same room?

8 A. Well, there's three of them, so it just  
9 depends on where they put you that day, but yeah.

10 Q. There's sort of three rooms in a row?

11 A. Yes.

12 Q. First of all, do these rooms have a door?

13 A. Yes, ma'am.

14 Q. Does the door have a window?

15 A. Yes.

16 Q. Do these rooms have a window?

17 A. Yes.

18 Q. And you visited with your attorney in  
19 those rooms before; right?

20 A. Yes.

21 Q. Now, when you visit with your attorney in  
22 those visiting rooms, is there a guard stationed  
23 somewhere in the vicinity of the room?

24 A. Yes, on the other side of the, I guess you  
25 would say, lobby part of it, yes.

1 Q. And the guard is stationed there to  
2 monitor the visit with your lawyer?

3 A. Yes.

4 Q. Now, when you were allowed to have contact  
5 visits with Carolyn in this same area, was there a  
6 guard stationed somewhere in the vicinity of these  
7 visiting rooms?

8 A. Yes, ma'am.

9 Q. And where was the guard stationed?

10 A. At a desk on the other side of the lobby,  
11 the room.

12 Q. At the same place where the guard would be  
13 stationed for a visit with your attorney?

14 A. Yes.

15 Q. And is there, at least in your mind, a  
16 purpose for a window in these visiting rooms and a  
17 window on the door?

18 A. Yeah, so every once in a while when he  
19 does his little round, he can look in.

20 Q. And see what's going on in the room?

21 A. Yes, ma'am.

22 Q. And have you seen the guards do the rounds  
23 like that when you're visiting with your lawyer?

24 A. Yes.

25 Q. So what about when you were visiting,

1 having these contact visits with Carolyn? Did the  
2 guard make the rounds?

3 A. Oh, yeah.

4 Q. And I think you told us on Friday that  
5 there were also cameras that were monitoring those  
6 visiting rooms; right?

7 A. Yes, ma'am.

8 Q. Is there a camera in each room?

9 A. Not in each room, but yes, there is a  
10 camera. The one that we were in, there is a camera.

11 Q. And you're aware that at least some of  
12 your misconduct with Carolyn was caught on camera;  
13 is that right?

14 A. Yes, ma'am.

15 Q. How many times did you have contact visits  
16 with Carolyn in the visiting rooms at Santa Fe?

17 A. How many contact visits?

18 Q. Yeah.

19 A. Quite a few. We had almost every --  
20 almost every weekend or every other weekend.

21 Q. Well, and you said a total of somewhere  
22 between 12 and 15 contact visits with her when you  
23 combine Grants and Santa Fe; right?

24 A. Yeah.

25 Q. How many of that 12 to 15 occurred at

1 Santa Fe?

2 A. I would say about 10, 12, maybe.

3 Q. So the vast majority occurred in Santa Fe?

4 A. Yes, because there was only, like, two  
5 that we had in Grants before we were transferred.

6 MS. JACKS: Your Honor, may we approach?

7 THE COURT: You may. Why don't we do  
8 this: Why don't we excuse the jury to take their  
9 morning break? Why don't we be in recess for about  
10 15 minutes, so I'll meet with the lawyers while  
11 y'all are taking a break.

12 (The jury left the courtroom.)

13 THE COURT: All right. Can we take this  
14 issue up maybe after our break?

15 MS. JACKS: No problem.

16 THE COURT: Let's do that. Let's take our  
17 break, then we'll take up Ms. Jacks' issue.

18 (The Court stood in recess.)

19 THE COURT: All right. Let's go on the  
20 record. Let me ask Mr. Villa something before --  
21 y'all filed, I guess yesterday, a sealed ex parte  
22 notice about Mr. Perez' health conditions. Did you  
23 intend to keep that from the Government or just file  
24 it under seal? I think it probably should be  
25 disclosed to the Government. Everything in here is

1 stuff that, you know, they may want to take issue  
2 with because some of it you, as counsel, are going  
3 to make representations, but others are just  
4 observations so --

5 MR. VILLA: Yes, certainly sealed. And  
6 Ms. Fox-Young filed it. Let me check with her.  
7 She's still making her way back to the court.

8 THE COURT: Unless I hear otherwise from  
9 you, I'm going to ask Ms. Standridge to just make it  
10 sealed, not ex parte.

11 MR. VILLA: Sure, Your Honor.

12 And I just want to also state for the  
13 record, we got two copies of Mr. Perez' file. I  
14 think those are the only copies that have been made.  
15 We're going to review them, make proposed  
16 redactions, and then keep one copy for ours.

17 THE COURT: That's fine.

18 MR. VILLA: Okay.

19 THE COURT: Ms. Fox-Young, I was telling  
20 Mr. Villa that unless y'all think otherwise, this  
21 sealed ex parte document -- I intend to keep it  
22 sealed. But I don't think it should be kept from  
23 the Government or from other parties. I don't think  
24 it should be ex parte.

25 MS. FOX-YOUNG: That's fine with me, Your

1 Honor.

2 THE COURT: So we'll seal it, but we'll  
3 not make it ex parte, if the Government or any  
4 defendant wants to comment on that.

5 MS. FOX-YOUNG: I think the main reason  
6 was just so that it's not available for anybody who  
7 wants to pull it off online. No objection at all.

8 THE COURT: Unless anybody has objection  
9 to dealing with it that way, not hearing any, that's  
10 the way we'll deal with it.

11 Ms. Jacks, you had something before we  
12 bring the jury in?

13 MS. JACKS: Your Honor, I do. The time  
14 has come for me to offer that redacted or edited sex  
15 tape. And I didn't want to do that without giving  
16 the Government a chance to object.

17 THE COURT: Well, I think it's marginal,  
18 but I do think it kind of comes under 401, beats the  
19 403, and satisfies 401, 402, 403. It's got some  
20 propensity, but a lot of evidence in this case does.  
21 It seemed to me that it had enough relevance to add  
22 it. I think it's a marginal one, but I think it  
23 crosses the line for me.

24 Mr. Castellano?

25 MR. CASTELLANO: Yes, Your Honor, as the

1 Court knows, we object to that evidence under 401,  
2 403, and 404. The witness has been impeached.  
3 Ms. Jacks spent a fair amount of time asking him  
4 about the visits, how he views the visits, asked him  
5 about the letter written to the Corrections  
6 Department, how his actions were inconsistent with  
7 being grateful and being a contributing member of  
8 society. So she's gotten everything out of that  
9 that she wanted. So the only thing that's remaining  
10 at this point is 403, substantial prejudice to the  
11 Government, and unduly swaying the jury with a video  
12 and under 404 as well. I think the impeachment has  
13 occurred. So what more does the video add, is the  
14 question. It doesn't add anything.

15 THE COURT: Ms. Jacks, anything you want  
16 to add?

17 MS. JACKS: I would just say that I think  
18 the video shows the extent and the blatant nature of  
19 the misconduct and goes to the witness' attitude  
20 toward the commitments that were supposedly made in  
21 connection with the cooperation.

22 MR. CASTELLANO: And she's done that with  
23 her cross-examination already, Your Honor.

24 THE COURT: Well, I've been very generous  
25 to, I think, all sides to let them put on their case

1 in the robustness that the evidence allows. I'm not  
2 inclined to start slicing and dicing this piece of  
3 evidence. So I'll allow the tape to --

4 MS. JACKS: In order to authenticate the  
5 tape, and actually confirm it, is Mr. Armenta -- do  
6 we want to show it to him here outside the presence  
7 of the jury and move for its admission? Or should I  
8 just move to admit it, and we can show it, and I can  
9 talk to him about it as we show it to the jury?

10 THE COURT: It's up to you. I mean, I  
11 think it's coming in. But it's your call.

12 MS. JACKS: Well, if the Government is  
13 going to object that it's not authentic, then I  
14 would propose to do it now.

15 THE COURT: All right. Go ahead.

16 BY MS. JACKS:

17 Q. Okay. Can we mark Defendants' Exhibit  
18 AB2? And Mr. Armenta, I'm just going to play this  
19 for you. I'll play a few minutes of it, and I'm  
20 going to ask you if this is, in fact, you and  
21 Carolyn in the visiting room at PNM, and if it  
22 appears to be at least an excerpt of the visitation  
23 that you had there with her?

24 A. Okay. All right.

25 (Tape played.)



1 Q. Okay. Is that you, Mr. Armenta?

2 A. Yes, ma'am.

3 Q. And is that an fair and accurate  
4 representation of at least that visit on November 5,  
5 2016?

6 A. Yes, ma'am.

7 MS. JACKS: Ms. Gilbert, do you want to  
8 fast-forward to the next one, December 3?

9 (Tape played.)

10 Q. Mr. Armenta, looking at this portion of  
11 the tape, is that again you with Carolyn in the  
12 visiting room at PNM North?

13 A. Yes.

14 Q. And is that a fair representation of what  
15 occurred in the visiting room on that day?

16 A. Yes, ma'am.

17 Q. And finally, this is December 31.

18 (Tape played.)

19 Q. Is you this and Carolyn in the visiting  
20 room at PNM North?

21 A. Yes, ma'am.

22 Q. And does this appear to be a fair and  
23 accurate representation of what occurred in the  
24 visiting room on that day?

25 A. Yes.

1 MS. JACKS: Thank you. I think that's  
2 all.

3 THE COURT: All right. Anything further  
4 on that, Mr. Castellano? It seems to me it's been  
5 sufficiently authenticated.

6 MR. CASTELLANO: I agree it has been  
7 authenticated. The only question is, is that the  
8 entire length of each of those clips? Otherwise,  
9 the same objection as to the need to show anything.

10 MS. JACKS: Those clips were provided to  
11 the Government weeks ago at the beginning of this  
12 trial, and I think the whole video on Armenta is how  
13 long? Less than two minutes, like a minute and a  
14 half.

15 MR. CASTELLANO: Because I stated as long  
16 as that is the extent of the clips, then yes, I  
17 understand.

18 THE COURT: Is that what you intend to  
19 have admitted?

20 MS. JACKS: Yes, Your Honor. We started  
21 with obviously much longer and unedited versions,  
22 but at the Court's instruction, we edited and pared  
23 it down.

24 THE COURT: All right. So I'll admit  
25 Defendants' Exhibit AB2.

1 All right. All rise.

2 (The jury entered the courtroom.)

3 THE COURT: All right. Everyone be  
4 seated.

5 Mr. Armenta, I'll remind you you're still  
6 under oath.

7 THE WITNESS: All right.

8 THE COURT: Ms. Jacks, if you wish to  
9 continue your cross-examination of Mr. Armenta, you  
10 may do so at this time.

11 MS. JACKS: I do, Your Honor. Your Honor,  
12 we'd ask that a video clip marked AB 2 be admitted.

13 THE COURT: It is admitted into evidence.

14 MS. JACKS: Thank you.

15 (Defendants' Exhibit AB 2 admitted.)

16 BY MS. JACKS:

17 Q. Mr. Armenta, during the recess, you had an  
18 opportunity to take a look at this video?

19 A. Yes, ma'am.

20 Q. And you've confirmed for us that this is  
21 in fact -- these are, in fact, excerpts from your  
22 visits with Carolyn at PNM North?

23 A. Yes, ma'am.

24 Q. May we play the video, please?

25 (Tape played.)

1 Q. Can we pause? Now, Mr. Armenta, is this  
2 the attorney visiting room where this visit is  
3 occurring with Carolyn?

4 A. Yes, ma'am.

5 Q. And can you see -- whoops, I guess it  
6 didn't pause. Could you see the window?

7 A. Yes.

8 Q. And where is the window in the video? Can  
9 you point to it?

10 A. Right here.

11 Q. Okay. You marked a blue -- that's  
12 actually a window that goes out to the area where  
13 the guard is watching; is that right?

14 A. Yes, ma'am.

15 Q. And then do we see the door in this video?

16 A. Yes, ma'am.

17 Q. And is there -- do you see the window  
18 that's in the door?

19 A. Yes, ma'am.

20 Q. And can you make a mark on that?

21 A. Right here.

22 Q. Okay. That's the door, and there is a  
23 window right there?

24 A. There's two windows. There's a window  
25 here, a window here, and the door here.

1 Q. So is there a window on either side of the  
2 door? Is that what you're telling us?

3 A. No, there's two windows and then the door.

4 Q. And this is on November 5, 2016; right?

5 A. Yes, ma'am.

6 Q. So this is after the letter to the Warden  
7 of PNM but before the banquet?

8 A. Yes, ma'am.

9 MS. JACKS: We can proceed. Thank you.

10 (Tape played.)

11 MS. JACKS: Can we pause?

12 BY MS. JACKS:

13 Q. So this is December 3 of 2016?

14 A. Yes.

15 Q. This is another visit with Carolyn in what  
16 appears to be the same visiting room?

17 A. Yes, ma'am.

18 Q. And again, is Carolyn giving you oral sex  
19 at this point?

20 A. Yes, ma'am.

21 Q. Just like the previous visit?

22 A. Yes, ma'am.

23 Q. Or the previous visit that's on video?

24 A. Yes, ma'am.

25 Q. We can continue.

1 (Tape played.)

2 Q. This is December 31 of 2016?

3 A. Yes, ma'am.

4 Q. And this is right after the banquet?

5 A. Yes, ma'am.

6 Q. Now, where was the guard while this was  
7 happening?

8 A. He is outside of the room. If you walk  
9 out of the door and take about 30 steps to the left,  
10 that's where his desk is at.

11 Q. And is it your -- these are -- you'll  
12 agree with me that the videos in this exhibit are  
13 just excerpts of what occurred during the visits;  
14 right?

15 A. Yes, ma'am.

16 Q. The visits, in fact, were much longer?

17 A. Yes.

18 Q. How long were these contact visits?

19 A. She usually came for about three hours,  
20 four hours sometimes.

21 Q. Would you agree that this type of behavior  
22 occurred throughout the visits?

23 A. Yes, at different times, yes.

24 Q. Did the guard ever walk by during these  
25 visits?

1 A. They walked by, but they didn't walk by  
2 while we were doing stuff, no.

3 Q. We can finish with the video. Oh, it's  
4 done. We can take it off the screen then.

5 So how was it at least that this was  
6 brought to your attention that you had been caught  
7 abusing the rules?

8 A. The administration came and told us that  
9 they were canceling the visits.

10 Q. And were you told at that point that the  
11 visits were captured on video?

12 A. Yes.

13 Q. And have you, in fact, had an opportunity  
14 to see the full uncut videos of those visits?

15 A. No, I have not.

16 Q. You know they exist; right?

17 A. Yes.

18 Q. When was it that you were told the visits  
19 were canceled?

20 A. I would say it was January 7. No, no, no.  
21 6th of 2017.

22 Q. Okay. So these visits that we just saw  
23 were occurring in November and December of 2016?

24 A. Yes, ma'am.

25 Q. During the same time period that your plea

1 deal with the Government was being negotiated?

2 A. Yes, ma'am.

3 Q. During the same time that you came to  
4 court and entered your plea of guilty?

5 A. Yes, ma'am.

6 Q. And after these visits were canceled, did  
7 you continue to conduct yourself without -- well,  
8 with disregard about what the rules were of the  
9 prison?

10 A. No.

11 Q. You started conforming your behavior?

12 A. Well, we were only there for another week.

13 Q. Oh, and then you got transferred?

14 A. Yes, ma'am.

15 Q. But before you got transferred, did you  
16 engage in some sort of additional misconduct with  
17 your computer tablet?

18 A. Oh, yes. Yes. I reset it.

19 Q. And when did you reset -- first of all,  
20 you got the tablet under an agreement that you would  
21 use to it view discovery in this case; right?

22 A. Yes, ma'am.

23 Q. And your tablet was updated with various  
24 reports and audio and witness statements as those  
25 became available in the case; right?



1 A. Yes, ma'am.

2 Q. And you got to have that tablet with you  
3 in your cell 24 hours a day?

4 A. Yes, ma'am.

5 Q. Seven days a week?

6 A. Yes, ma'am.

7 Q. And to familiarize yourself with not only  
8 the evidence in the case but things that other  
9 people said?

10 A. Yes, ma'am.

11 Q. And even when these visits were going on  
12 with Carolyn, you continued to have access to your  
13 computer tablet; right?

14 A. Yes.

15 Q. When in relation to being told that your  
16 visits with Carolyn had been canceled because you  
17 had abused the rules of the prison did you reset  
18 your tablet?

19 A. It was before the new year.

20 Q. So in December of 2016?

21 A. Yes.

22 Q. Did you testify last week it was January  
23 of 2017?

24 A. Yeah, I might have. It was pretty close.  
25 It was right there in that.

1 Q. So it all happened within the same  
2 timeframe?

3 A. Yes, within a week of each other; I would  
4 say two weeks, maybe.

5 Q. And by resetting your tablet, did you know  
6 that you had violated an order of this Court?

7 A. Yes, ma'am, I did.

8 Q. And you violated it. It wasn't a mistake  
9 that you reset the tablet; right?

10 A. No.

11 Q. You did it intentionally?

12 A. Well, yeah. I mean, a guy who's the one  
13 that reset it, someone else -- and when he told me  
14 that he reset it, I said, "Reset mine."

15 Q. So somebody told you they had reset their  
16 own tablet?

17 A. Yes.

18 Q. And this was another Government witness?

19 A. Yes, ma'am.

20 Q. And this was somebody that you were housed  
21 with?

22 A. Yes, ma'am.

23 Q. Who was it?

24 A. Roy Martinez.

25 Q. So it was another one of the people that

1 had signed onto this letter to the warden at PNM?

2 A. No.

3 Q. Oh, a different person?

4 A. Yes, it was Roy, not Robert.

5 Q. And were you housed with Mr. Roy Martinez?

6 A. Yes, we were a couple doors away from each  
7 other.

8 Q. And for how long did you share a housing  
9 unit with him?

10 A. Since September of 2016. I mean -- yeah,  
11 '16.

12 Q. September 2016 until when?

13 A. Until we were together all the way up  
14 until August of 2017.

15 Q. So for almost a year?

16 A. Yes.

17 Q. And Roy Martinez also had a tablet?

18 A. Yes.

19 Q. So he told you that he reset his?

20 A. Yes.

21 Q. And what sort of opportunities became  
22 available to him once he reset his tablet?

23 A. You could use the camera, play games, work  
24 with the Windows program on there, write stories, or  
25 whatever. And he was typing a lot, like a journal

1 type of thing. He was always writing or typing.

2 Q. So you could use it almost like a regular  
3 computer?

4 A. Yeah.

5 Q. And once you found out that he had reset  
6 his, you offered yours up and said, "Do it to mine"?

7 A. I got excited. "Do mine. Do mine."

8 Q. Now, during the time period that your  
9 tablet had been reset, were you living in a housing  
10 unit with other Government witnesses?

11 A. Yes, ma'am.

12 Q. Was that for the whole time?

13 A. The whole --

14 Q. Let me reorient you to some dates. I  
15 think we heard last week that your tablet was reset  
16 and that you had it for several months before it was  
17 seized?

18 A. Oh, yes.

19 Q. And was it seized sometime in May of 2017?

20 A. No, it was April.

21 Q. Okay. Do you remember the date?

22 A. Not exactly, but it was around my birthday  
23 time, so it was like, I would say, 15, 16 of April,  
24 something like that.

25 Q. Sometime in the middle of April 2017?

1 A. Yes.

2 Q. So between the time that you had your  
3 tablet reset in December of 2016, through April of  
4 2017, were you housed with other Government  
5 witnesses?

6 A. Yes.

7 Q. And did those -- approximately how many?

8 A. Eight, eight or nine.

9 Q. And did each of those other Government  
10 witnesses at the time have their own tablet?

11 A. Yes.

12 Q. So none of them had a reason to use your  
13 tablet?

14 A. No.

15 Q. Now, last week, when you were being asked  
16 about the teenage pornography sites that were  
17 Googled from your tablet, you left us to -- or you  
18 insinuated that perhaps somebody, not you, had  
19 Googled those things. Do you recall that testimony?

20 A. Yes, ma'am, I do.

21 Q. So who were you implying did that besides  
22 you?

23 A. We were also housed with other inmates  
24 other than cooperating witnesses, about seven or  
25 eight other witnesses -- not witnesses, but inmates.

1 At Sandoval County jail.

2 Q. And is it your testimony that you lent  
3 your tablet out to other inmates?

4 A. Yes, ma'am.

5 Q. Now, other inmates weren't Googling the  
6 name Cheryl Ann Martinez, were they?

7 A. No.

8 Q. Other inmates weren't Googling your name,  
9 were they?

10 A. I did.

11 Q. So you admit at least some of the Google  
12 searches on that tablet were yours?

13 A. Of course, yes.

14 Q. And of those other inmates, did you lend  
15 your tablet out to all of them, or just one?

16 A. It was mainly four of them that would come  
17 in. See, at first, we were trying to keep it a  
18 secret from them. And they ended up just finding  
19 out. And when they did, we didn't want them to say  
20 anything, so we let them use the computers.

21 Q. Well, would you let them use it in your  
22 presence, or would you let them run off with it?

23 A. They'd use it in my room. If I had to  
24 leave, I'd leave and just leave them there to do  
25 what they had to do or what they wanted to do.

1 Q. And were there materials -- were there  
2 pornographic materials downloaded onto your tablet  
3 so you could watch them when you weren't connected  
4 to the internet?

5 A. Yes.

6 Q. And were the pornographic materials  
7 downloaded to your tablet -- did those include  
8 images of teenagers?

9 A. Not that I'm aware of, because it's  
10 illegal. All the sites that I had went to were all  
11 adult sites.

12 Q. Once the tablet was taken away in April of  
13 2017, have you ever gotten it back?

14 A. No, ma'am.

15 Q. Was the resetting of the tablet the last  
16 abuse of the rules of the Department of Corrections  
17 that you've engaged in?

18 A. Yes, ma'am.

19 Q. Nothing since then?

20 A. With the Department of Corrections, yeah,  
21 nothing. I haven't been to the Department of  
22 Corrections.

23 Q. How about the rules of any law enforcement  
24 agency where you're housed?

25 A. I got a couple misconduct reports.

1 Q. Let's talk about what happened in  
2 September of 2017.

3 A. September, okay.

4 Q. Because in September 2017, you got caught  
5 trying to work some new scam, didn't you?

6 A. Some what?

7 Q. New scam?

8 A. News scan?

9 Q. New, new, a different scam.

10 A. No.

11 Q. You didn't?

12 A. No.

13 Q. Let's talk about a violation of the rules  
14 of the prison where you were housed in September of  
15 2017. Is it your testimony that you have no  
16 recollection of what happened?

17 A. I don't understand any -- what you mean by  
18 "new scam."

19 Q. Well, let's talk about --

20 MS. JACKS: Your Honor, I have a letter  
21 that's been marked as Government's Exhibit 758 and I  
22 think it's been previously admitted. May I put this  
23 on the Elmo?

24 THE COURT: Let me just double-check.  
25 Yes, it's been admitted.



1 BY MS. JACKS:

2 Q. So Mr. Armenta, do you recall being asked  
3 about this letter by Government prosecutors last  
4 week?

5 A. Yes, I remember now, I'm sorry.

6 Q. And this was -- well, why don't -- first  
7 of all, you read us what this letter says. It's  
8 light, so if you need me to walk a copy up to you,  
9 I'd be happy to do that.

10 A. That would be better, if you could,  
11 please.

12 "What's up, ladies? I seen you all  
13 yesterday doing the damn thing. That's what's up.  
14 Anyway, my name is Jerry Armenta. Everyone calls me  
15 Kreaper. I'm sending this missive your way in hopes  
16 of catching me a champion. Myself and the homies  
17 here in A pod need to cop some subs. You know them  
18 lil stripper bitches? We got money we can send to  
19 wherever you want. Just let me know. Send us word  
20 right away, at least by dinner, so that we could get  
21 this business done. Send me back some info in my  
22 homie's kosher tray. His name is Paul Rivera. But  
23 on the real, get back at me whoever and wherever you  
24 are. Peace, love, and respect. Creeps."

25 Q. I want to ask you just a few questions

1 about that letter. Who are these ladies you're  
2 writing to?

3 A. They're female inmates that work in the  
4 kitchen.

5 Q. And was this letter written by you?

6 A. Yes.

7 Q. Was it written in September of 2017?

8 A. Yes.

9 Q. And when you asked for -- well, first of  
10 all, who are the homies here in A pod?

11 A. Me and the other cooperating witnesses and  
12 the other guys that were housed with us.

13 Q. Who were the other Government witnesses  
14 that were living with you at the time you wrote this  
15 letter?

16 A. Frederico Munoz; Salamon -- I don't know  
17 his last name -- Eugene Martinez; myself; Timothy  
18 Martinez; Ruben Hernandez; Paul Rivera. And I  
19 forget the other man's name. He's a defendant, but  
20 he's not part of the RICO. He's got different  
21 federal charges.

22 Q. So he's not a Government witness, or he  
23 is?

24 A. He was there with us. He says he's not,  
25 but I'm sure he is. He was there with us.

1 Q. And what custodial facility were you in  
2 when you wrote this letter?

3 A. Sandoval County jail.

4 Q. The same place where you were accessing  
5 the internet on your tablet?

6 A. Yes, ma'am.

7 Q. And what is it that you were trying to get  
8 these ladies to give you? I think they're referred  
9 to as "subs" and "lil stripper bitches" in the  
10 letter.

11 A. Suboxone in the form of strips.

12 Q. When you told them, "We got money," how  
13 were you going to pay for this?

14 A. We were going to send money to their  
15 people.

16 Q. From your prison commissary accounts?

17 A. No, from whoever we asked to send money  
18 to.

19 Q. You were going to have your family members  
20 or friends on the outside send money to their family  
21 members or friends?

22 A. Yes.

23 Q. In exchange for them providing you drugs  
24 in the prison facility?

25 A. Yes, ma'am.

1 Q. So you were going to engage in additional  
2 criminal behavior to facilitate getting drugs into  
3 the detention center?

4 A. They were already there.

5 Q. Well, the ladies were; right? The ladies  
6 that were getting these notes?

7 A. Yeah, they already had it.

8 Q. But the people on the outside that were  
9 going to help facilitate the payments -- they  
10 weren't already in prison, were they?

11 A. No.

12 Q. And by helping somebody facilitate the  
13 drug trade in a custodial facility, they would incur  
14 their own criminal liability; right?

15 A. No, that's on them.

16 Q. And by you asking them to, you're engaging  
17 in a conspiracy to distribute drugs in a custodial  
18 facility, aren't you?

19 A. I am, yeah.

20 Q. And you're doing all this while you're a  
21 Government witness in this case?

22 A. Yes, ma'am.

23 Q. After you promised to tell the truth;  
24 right?

25 A. Yes.

1 Q. And not engage in continuing criminal  
2 behavior?

3 A. Yes, ma'am.

4 Q. Is this more evidence of your commitment  
5 to becoming a full and responsible participant in  
6 society?

7 A. No, it doesn't look good.

8 Q. Is this more evidence of your gratitude  
9 and respect for law enforcement and corrections  
10 employees?

11 A. No.

12 MS. JACKS: Your Honor, I have two  
13 certified judgment and sentence orders. I'd ask  
14 that those be marked defense next in order.

15 THE COURT: All right. What's the  
16 numbers?

17 MS. JACKS: They're Defense Exhibits F, as  
18 in Frank, D as in dog. That will be the order dated  
19 November 24, 2000, and FE, as in Frank Echo. And  
20 that's the order dated May 15, 2013.

21 THE COURT: Any objection to those, Mr.  
22 Castellano?

23 MR. CASTELLANO: May I see them, Your  
24 Honor?

25 No objection, Your Honor.

1 THE COURT: Any other defendant have any  
2 objection? Not hearing any objections, Defendants'  
3 Exhibits FD and FE will be admitted into evidence.

4 (Defendants' Exhibits FD and FE admitted.)

5 MS. JACKS: If I could just have a moment.

6 THE COURT: You may.

7 MS. JACKS: Your Honor, I have nothing  
8 further at this time.

9 THE COURT: Thank you, Ms. Jacks.

10 Mr. Maynard, are you going to go next?

11 MR. MAYNARD: Yes, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MAYNARD:

14 Q. Mr. Armenta?

15 A. Yes, sir.

16 Q. You recall the events of March 6 and March  
17 7, 2014?

18 A. Yes, sir, I do.

19 Q. And on direct and on cross you described  
20 those events and the homicide, the murder of  
21 Mr. Molina?

22 A. Yes, sir.

23 Q. The four of you that physically directly  
24 participated in it -- there were four of you; right?

25 A. Yes, sir.

1 Q. And the plan was that that was going to  
2 take place in Mr. Molina's cell?

3 A. Yes, sir.

4 Q. And Timothy Martinez and Mario Rodriguez  
5 were going to incapacitate him by choking him,  
6 making him unconscious?

7 A. Yes, sir.

8 Q. And then you and Jerry Montoya were to  
9 stab him?

10 A. Yes, sir.

11 Q. And all of the events, everything, was  
12 going to take place in the cell?

13 A. Yes.

14 Q. And if things had gone according to plan,  
15 since this -- furthermore, this happened shortly  
16 after a head count?

17 A. Yes, sir.

18 Q. So -- and when would the next head count  
19 typically be in that pod?

20 A. Lockdown again was 8:00 for the rest of  
21 the night.

22 Q. So a few hours would go by before the next  
23 head count?

24 A. Yes, sir.

25 Q. And of course, this all happened in the

1 green pod?

2 A. No, this happened in blue pod.

3 Q. In the blue pod. I'm sorry.

4 A. Yes, sir.

5 Q. Now, Mr. Herrera, Carlos Herrera, was in  
6 another pod, the yellow pod?

7 A. Yes, he was in yellow pod.

8 Q. Now, what went wrong with this plan is  
9 that Mr. Molina got out of the cell?

10 A. Apparently, yes, that's what happened.

11 Q. But that wasn't part of the plan, was it?

12 A. No.

13 Q. And so the plan obviously was to kill him?

14 A. Yes.

15 Q. Because -- and that was the plan that you  
16 participated in?

17 A. Yes, sir.

18 Q. But you didn't intend to kill him?

19 A. No, I didn't want to, and I didn't intend  
20 to.

21 Q. But the plan was that he would die in the  
22 cell?

23 A. Yes, that's what they told me.

24 Q. Now, the cameras -- there are three  
25 cameras. They're not always working, but at least



1 you've seen -- you've heard about some of the camera  
2 testimony or the camera evidence in this case;  
3 correct?

4 A. Yes, sir.

5 Q. And it turned out -- because Mr. Molina  
6 escaped and got into the general area of the pod, it  
7 turned out that this killing happened on camera?

8 A. Yes, sir.

9 Q. And you discovered that you were, in fact,  
10 on camera, participating?

11 A. I knew I was on camera.

12 Q. Okay. At the moment, did you realize you  
13 were on camera?

14 A. Yes, sir.

15 Q. And you found out that in spades the next  
16 day when you were interviewed by the authorities  
17 over there at the prison?

18 A. Yes.

19 Q. And they pointed out to you how you were  
20 dressed and this happened all on camera?

21 A. They didn't actually say: We got you on  
22 camera; we got you this; we got you this way. They  
23 first approached me: What happened? Where were  
24 you? You know, they try to -- I don't know.

25 Q. What did you tell them?

1           A.     I told them that I was at the front door,  
2     that I didn't have nothing to do with it. I wasn't  
3     around when he was getting beat up.

4           Q.     And they told you, no, we've got some  
5     camera footage?

6           A.     No, they didn't say that.

7           Q.     They didn't say it the next day?

8           A.     No.

9           Q.     Because you had an interview on March 8,  
10    the day after the murder; correct?

11          A.     Yes.

12          Q.     And you tried to tell them you were  
13    somewhere else, you didn't see anything, you didn't  
14    have anything to do with it?

15          A.     Yes.

16          Q.     And then on March 10, there was another  
17    interview?

18          A.     Yes, sir.

19          Q.     That wasn't very different?

20          A.     I didn't say nothing.

21          Q.     Right. Now, you knew at this time you  
22    were facing prosecution in state court.

23          A.     Yes, sir.

24          Q.     And likely conviction?

25          A.     Yes, sir.

1 Q. And likely a possible life sentence?

2 A. Yes, sir.

3 Q. Or a sentence for a long number of years?

4 A. Yes, sir.

5 Q. Of course, even if you got a life sentence  
6 under New Mexico law, your thought was that, well,  
7 eventually I might be eligible for parole?

8 A. The thought came to my mind.

9 Q. Right. Now, initially, you were  
10 prosecuted in state court. You had an attorney to  
11 represent you; correct?

12 A. Yes, sir.

13 Q. And you kind of flip-flopped, you were  
14 going to take the whole rap at one point, then you  
15 changed your mind about taking the whole rap and so  
16 forth?

17 A. Yes, sir.

18 Q. And then you participated in an interview  
19 with authorities and with your defense lawyer. And  
20 if I understand your testimony correctly, that was  
21 about late August or September 1 of 2015?

22 A. Yes, sir.

23 Q. This is about a year and a half after the  
24 incident?

25 A. Yes, sir.

1 Q. And your memory is still fairly fresh?

2 A. Yes, sir.

3 Q. And there was a follow-up interview. And  
4 this time, this was in mid-September, around  
5 September 17, and this time federal authorities were  
6 involved?

7 A. Yes, sir.

8 Q. Was that the first time you were aware  
9 that federal authorities were involved?

10 A. Yes.

11 Q. Now, you had your lawyer state-side;  
12 correct?

13 A. Yes, sir.

14 Q. Representing you?

15 A. Yes, sir.

16 Q. And was it made known to you that in  
17 federal prosecution, this type of crime could  
18 potentially be eligible for the death penalty?

19 A. Yes.

20 Q. Or life imprisonment?

21 A. Yes, sir.

22 Q. So the stakes raised -- the stakes went  
23 up?

24 A. Yes, sir.

25 Q. Now, later on, the death penalty was taken

1 off the table for everyone involved; correct?

2 A. Right.

3 Q. So that interview with the federal  
4 authorities took place in mid-September of 2015?

5 A. Yes, sir.

6 Q. Now, you have decided to cooperate,  
7 according to your testimony, by this time?

8 A. Yes, sir.

9 Q. And questions came up about other  
10 participants?

11 A. Yes, sir.

12 Q. You mentioned Tim Martinez, you mentioned  
13 Mario Rodriguez, you mentioned Mr. Montoya, you  
14 mentioned other -- and Mr. Sanchez. You talked  
15 about other people in the pod.

16 A. Yes, sir.

17 Q. And then there was another meeting that  
18 took place in October of 2015?

19 A. Right.

20 Q. Right. And again, you went over the same  
21 territory?

22 A. Yes, sir.

23 Q. The same scenario, the same description of  
24 events and involvement of people?

25 A. Yes, sir.

1 Q. A month later, in December of 2015, or a  
2 month and a half later, December of 2015, you pled  
3 guilty?

4 A. Well, yeah, I was accepting a plea.

5 Q. And then --

6 A. I actually hadn't gotten to the courtroom  
7 to do that, but yes, I had already talked with my  
8 attorney.

9 Q. I'm sorry. In 2015, you were arrested  
10 state-side -- on the federal side; correct?

11 A. Oh, yes.

12 Q. So did you go into federal custody at that  
13 time?

14 A. December 3.

15 Q. Of 2015?

16 A. Yes.

17 Q. All right. Now, another entire year went  
18 by before in December of 2016 you decided to plead  
19 guilty under this plea agreement?

20 A. Yes, sir.

21 Q. And of course, you'd been housed, as you  
22 described on cross and direct examination, most of  
23 that year; and even after the plea of guilty, you  
24 were housed with other people who were cooperating  
25 with the Government's investigation?

1 A. Yes, sir.

2 Q. And you knew the investigation was about  
3 other members, other alleged members of SNM?

4 A. Yes, sir.

5 Q. And you knew who were the other defendants  
6 in the case?

7 A. Yes.

8 Q. You knew what kind of information the  
9 Government might be interested in?

10 A. Yes.

11 Q. And you had access to the tablets?

12 A. Yes.

13 Q. And you had access to the other people who  
14 were cooperating, so you could talk about the  
15 historical facts and talk about your stories and  
16 talk about events and put things together?

17 A. I'm sure we could have, but I never did.

18 Q. You had that opportunity?

19 A. I had that opportunity for a long time,  
20 yes.

21 Q. And then you pled guilty in December of  
22 2016. And if I may, I need to get the Elmo on.

23 I'd like to show you -- I'm digitally  
24 challenged. I'm going to show you a page from the  
25 plea agreement, and I want to clarify your

1 expectations in the situation that you're in right  
2 now and the situation you've been in for the past  
3 couple of years.

4 A. Okay.

5 Q. Do you recognize this particular document?  
6 Does it have your signature on it?

7 A. Yes.

8 Q. In fact, is that an addendum to the plea  
9 agreement that you signed with the Government on  
10 December 13 of 2016?

11 A. Yes, sir.

12 Q. Okay. Now, right now, as you're in the  
13 courtroom, for the past year and a half since you  
14 pled guilty, you're subject to life in prison?

15 A. Yes, sir, I am.

16 Q. And you're going to get life imprisonment  
17 unless you get the favor from the Government and a  
18 favor from the judge?

19 A. Yeah, I could very well get a life  
20 sentence still, and I'm prepared for that.

21 Q. Now, right here, according to this -- and  
22 tell me if I'm incorrect here -- it says here, "The  
23 defendant understands that the decision whether to  
24 seek a downward departure for substantial assistance  
25 will be made in the sole discretion of the United



1 States Attorney for the District of New Mexico."

2 A. Yes, sir.

3 Q. So in order to get a sentence of less than  
4 life, you have to please the people at this table  
5 first?

6 A. Yeah, I'm sitting here testifying.

7 Q. They have the discretion, and they have  
8 the green light for a sentence of less than life?

9 A. To speak on my behalf, yes, they do.

10 Q. And unless they give you that green light,  
11 the judge can't give you less than life?

12 A. He could. Even regardless of their green  
13 light or not, it's up to him, ultimately, at the end  
14 to say: "Look, you took a life, and for that, I'm  
15 going to give you life."

16 And like I said, I'm well prepared to do  
17 that. I took a life and I'm going to take my  
18 responsibility, however I have to take it.

19 Q. Well, the next sentence says that if the  
20 United States does file a motion seeking a downward  
21 departure, the decision whether to depart downwards,  
22 as well as the amount of any departure, is solely  
23 within the discretion of the Court.

24 A. Right.

25 Q. So that says the Court can depart downward

1 and give you less than a life sentence if the  
2 Government files the motion for a departure;  
3 correct?

4 A. Yes.

5 Q. So without that motion for departure from  
6 the Government, you're going to do a life sentence?

7 A. Yes.

8 Q. So you have a keen interest, not just to  
9 become a law-abiding citizen, again, but you'd have  
10 a keen interest to please the people investigating  
11 and prosecuting this case?

12 A. Yes.

13 Q. Now, you claimed on your direct  
14 examination that you had a conversation back with  
15 Mr. Herrera a couple of years ago, two-and-a-half,  
16 three years ago?

17 A. Yes, sir.

18 Q. You didn't mention that conversation in  
19 March of 2014 to authorities, did you?

20 A. No, because I didn't have that  
21 conversation until after March of 2014.

22 Q. And you didn't mention it after that  
23 conversation in September of 2015? Remember, you  
24 had an interview, and a transcript was made, and you  
25 never indicated that you had a conversation with

1 Carlos Herrera where he said, "I'm the one"?

2 A. Yeah, I didn't bring it up.

3 Q. You didn't bring it up?

4 A. No.

5 Q. And at the next one you didn't bring it  
6 up?

7 A. Right.

8 Q. Okay. In fact, you brought it up -- you  
9 had a meeting on January 22. The Monday before jury  
10 selection, you had a meeting with Mr. Acee and with  
11 the prosecutors in preparation for your testimony.  
12 Do you remember that?

13 A. I remember the meeting. I believe the  
14 date is wrong, though.

15 Q. It was in January of this year, just two  
16 or three weeks ago?

17 A. Yes.

18 Q. And that's when you mentioned: "Oh, by  
19 the way, I had a conversation with Carlos Herrera in  
20 June of 2015, and he claims he's the one who decided  
21 on the hit."

22 A. I had mentioned Carlos Herrera before.

23 Q. If you had mentioned it, you didn't  
24 mention anything about a conversation with him where  
25 he claims credit for the hit?

1           A.    I know I did.  I can't exactly tell you  
2 when, what interview, what day it was.  But I know I  
3 mentioned it.

4           Q.    If you had mentioned it, does it seem to  
5 you it would appear in some kind of report of  
6 investigation?

7           A.    Yeah, I believe it is somewhere.

8           Q.    You believe it is?

9           A.    Yeah.

10          Q.    All right.  You believe the FBI  
11 authorities would take careful notes about  
12 interviews and so forth?

13          A.    Yes.

14          Q.    You're not aware of any such notes.  You  
15 had access to the investigative reports by the  
16 cooperating witnesses, have you not?

17          A.    Yes, sir.

18          Q.    Okay.  You said during the past few  
19 months -- in fact, during the past year you've been  
20 housed with other people who are going to be  
21 testifying here?

22          A.    Yes, sir.

23          Q.    And your topic of conversation has  
24 frequently been about this case?

25          A.    No.

1 Q. You haven't been talking about the case?

2 A. I have no desire to talk about the case  
3 with the other defendants.

4 Q. Even though you're all on the witness  
5 list, you knew the case was coming up, you knew  
6 you'd been -- you have a lot at stake in this  
7 particular case?

8 A. I understand that. Yeah, I understand I  
9 break rules and I don't follow them too well. But I  
10 take good advice from my attorney, and I don't speak  
11 about anything to anybody.

12 Q. Not even to Timothy Martinez?

13 A. No.

14 Q. Or Roberto Martinez?

15 A. No.

16 Q. And to Benjamin Clark?

17 A. Nope.

18 Q. So if they were to testify that -- they  
19 would be incorrect to say that they've discussed the  
20 case from time to time with you?

21 A. Yes.

22 MR. MAYNARD: May I have a moment, Your  
23 Honor?

24 THE COURT: You may, Mr. Maynard.

25 MR. MAYNARD: No further questions at this

1 time.

2 THE COURT: Thank you, Mr. Maynard.

3 Ms. Fox-Young, are you next?

4 MS. FOX-YOUNG: Thank you, Your Honor.

5 THE COURT: Ms. Fox-Young.

6 CROSS-EXAMINATION

7 BY MS. FOX-YOUNG:

8 Q. Good morning, Mr. Armenta.

9 A. Hello. How are you?

10 Q. You're called Kreaper?

11 A. Yes.

12 Q. Why?

13 A. Because one of my older homies named me  
14 that because he said that I was a creep. I was  
15 about 17 when he named me that.

16 Q. And you've kept it since then?

17 A. Yes.

18 Q. You arrived at Southern New Mexico  
19 Correctional Facility, I think you said, around  
20 Christmas of 2013; right?

21 A. Yes, ma'am.

22 Q. And at that time you were in blue pod?

23 A. Yes, ma'am.

24 Q. And I think you said that you knew some of  
25 the folks who were in yellow pod; right?

1           A.    A couple of the people. Well, not knew  
2   them. Just, you know, by their name I know who they  
3   were.

4           Q.    You knew them by reputation?

5           A.    Yeah.

6           Q.    Was Billy Cordova in there?

7           A.    Yes.

8           Q.    Do you know Billy Cordova?

9           A.    Yes, I do.

10          Q.    And did you have occasion to talk with  
11   Billy Cordova when you were at Southern New Mexico  
12   Correctional Facility in 2013, 2014?

13          A.    A couple of times.

14          Q.    Did you talk to him about past murders  
15   he'd been involved in?

16          A.    No.

17          Q.    Did he ever brag to you about murders he'd  
18   been involved in?

19          A.    No.

20          Q.    Never happened?

21          A.    No.

22          Q.    Would you consider him to be a friend?

23          A.    No.

24          Q.    Were you later housed -- I'm going to skip  
25   forward. You were moved to the North, you were

1 moved to PNM; right?

2 A. Yes, ma'am.

3 Q. Were you housed with Billy Cordova there?

4 A. Yes, ma'am.

5 Q. Okay. So when you arrived at Southern New  
6 Mexico Correctional Facility and you were in blue  
7 pod, do you remember seeing Rudy Perez?

8 A. Yes.

9 Q. And he was pretty sick at that time, was  
10 he not?

11 A. Yes.

12 Q. Was he mainly in his cell while you were  
13 there?

14 A. Most of the time, yes.

15 Q. And so that was about maybe a  
16 two-and-a-half month period before the murder that  
17 you were there in blue pod with Mr. Perez?

18 A. Yes.

19 Q. Almost never saw him?

20 A. I saw him every day. I mean, he would  
21 come out. But you know, the majority of the time he  
22 was in his room.

23 Q. And do you remember that he was taking  
24 medications at that time?

25 A. Yes, ma'am.



1 Q. Do you remember the nurse coming to bring  
2 him medication?

3 A. Yes, ma'am.

4 Q. You know about what kind of sicknesses he  
5 had?

6 A. I'm not aware the exact sicknesses he had,  
7 but I know that Mr. Perez was pretty sick, and still  
8 is.

9 Q. And you knew at that time that he had just  
10 recently been released from a long hospital stay;  
11 right?

12 A. Yes, I had heard something about it, yes.

13 Q. And you knew that he had some trouble  
14 getting around?

15 A. Yes.

16 Q. He needed a walker to get around; right?

17 A. Yes.

18 Q. He couldn't walk on his own?

19 A. No.

20 Q. You talked a little bit about your  
21 interactions with Mario Rodriguez, Blue, on March 6  
22 and 7. You talked about the fact that he kind of  
23 forced you into participating in this act; right?

24 A. Not Blue. Mr. Sanchez.

25 Q. Mr. Rodriguez. I'm asking about

1 Mr. Rodriguez.

2 A. He didn't make me do anything. He didn't  
3 tell me that I had to go put in work. He didn't  
4 tell me that I had to go kill Javier, none of that.  
5 He gave me the shank.

6 Q. I'm not asking what he didn't tell you.  
7 I'm asking about how you did interact with him.

8 So let's start at the beginning. I think  
9 you have said that on March 6, you saw him  
10 interacting with somebody with regard to preparing  
11 for this murder; is that right?

12 A. He was talking with somebody in yellow pod  
13 through the door.

14 Q. Okay. And in fact, when you witnessed him  
15 talking to somebody in yellow pod, after Mr. Urquizo  
16 and Mr. Varela arrived, you thought you might be in  
17 danger, didn't you?

18 A. Yeah.

19 Q. You did, and that was because of your past  
20 sex offense with your stepdaughter?

21 A. Yes.

22 Q. You thought he might be coming after you?

23 A. It was possible.

24 Q. It was possible? That was in your mind at  
25 that time.

1 A. Oh, yeah.

2 Q. And you also knew about Mr. Rodriguez's  
3 past sex offense; right?

4 A. Yes.

5 Q. Did he take a particular interest in your  
6 sex offense?

7 A. He didn't know about it at that time.  
8 Later on is when -- after I spoke with Montoya's  
9 attorney, that's when they found out that it was --  
10 in fact, I had some arrests for sexual offense.

11 Q. Well, let's go back to March 6. When you  
12 saw Mr. Rodriguez engineering something, you thought  
13 he was after you, I think you just testified to  
14 that, because of the sex offense; right?

15 A. That wasn't until the 7th.

16 Q. Oh, on the 7th?

17 A. Yes.

18 Q. So in your mind, on the 7th, you thought  
19 Mr. Rodriguez was coming after you because of your  
20 criminal past?

21 A. Not extensively, not like I was, "Oh, my  
22 God, I'm scared, he's going to get me because they  
23 found out about this." It crossed my mind. Because  
24 they have -- I don't know how they do it, but they  
25 got a way of finding out things.

1 Q. Well, it didn't just cross your mind; it  
2 was specifically on your mind --

3 A. Yeah, but --

4 Q. -- that he could be coming after you  
5 because of your past sexual contact; right?

6 A. Yeah.

7 Q. And so as things proceeded on the 7th and  
8 you interacted with Mr. Rodriguez -- I'd like to  
9 look at Government's Exhibit 757. Mr. Armenta,  
10 let's take a look at this letter that I know you  
11 wrote after the fact, and you've testified about it  
12 and about the contents of it. And I think --  
13 correct me if I'm wrong, but I think your testimony  
14 has been that some things in that letter were true  
15 and some things were not. And this is a letter that  
16 you wrote to Mr. Montoya?

17 A. Yes, ma'am.

18 Q. And this letter was intercepted; right?  
19 It never reached Mr. Montoya?

20 A. Right.

21 Q. But you wrote it to Mr. Montoya, and your  
22 purpose for writing the letter was to try to get Mr.  
23 Montoya to get on the same page with you and also to  
24 become a Government witness; right?

25 A. Yeah.

1 Q. And you tell him in this letter, "but I  
2 had to tell the truth about how it all went down  
3 from you picking up your hands."

4 Let's talk about that. Tell me when he  
5 picked up his hands, and did you see that?

6 A. I seen it. I was standing on the stairs  
7 and that's when I see Mario Rodriguez walk into Mr.  
8 Montoya's room, and he pulled out something, which  
9 was the shank, and he gave it to him, and Jerry  
10 Montoya picked his hands up like --

11 Q. He held his hands over his head?

12 A. Not like that. Like, whoa. He didn't  
13 know what was going on at that minute. So he was,  
14 like -- he seen him pull out the shank. He was,  
15 "Oh, shit, like, what's up," you know?

16 Q. He was threatened?

17 A. He was startled.

18 Q. He felt threatened?

19 A. Yeah, I would say so.

20 Q. That was your perception?

21 A. Yeah.

22 Q. And you go on, "When Blue handed you your  
23 piece" -- that's what you watched?

24 A. Yes.

25 Q. "To the threats of your life and mine."

1 And so are there some other ways in which Rodriguez  
2 threatened Mr. Montoya's life on that day, other  
3 than just coming in with a shank and approaching  
4 him?

5 A. Later, I found out with Montoya that he  
6 made him do it, made Montoya do it as well.

7 Q. He threatened Montoya, he told him: "You  
8 have to do this"?

9 A. Yeah.

10 Q. And he also threatened you?

11 A. No, Mr. Sanchez threatened me.

12 Q. You say here in this letter, "When Blue  
13 handed you your piece, to the threats of your life  
14 and mine," are you talking about Blue threatening  
15 your life?

16 A. No, just the threats in general.

17 Q. Okay. Mr. Armenta, after the fact, after  
18 the murder, after the stabbing, you described how  
19 Mario Rodriguez came up with the idea of you taking  
20 responsibility solely for this murder; right?

21 A. Yes.

22 Q. And he told you -- and I'm not trying to  
23 elicit any hearsay by Mr. Rodriguez -- but he came  
24 up with this idea of writing a letter, and you wrote  
25 it, and you've gone over that letter; right?

1           A.     The idea was him and me taking the blame.  
2     I came up with the letter with Mr. Martinez and Mr.  
3     Montoya, we talked about it. But Rodriguez, Blue,  
4     he's the one that told me I should take the blame  
5     because I was the one that got him charged.

6           Q.     Right, and so you felt that you needed to  
7     do that?

8           A.     I was under orders.

9           Q.     Let me ask my question, Mr. Armenta. You  
10    felt that you needed to do that in order to satisfy  
11    Mr. Rodriguez; is that right?

12          A.     Yeah.

13          Q.     Because what would happen if you wouldn't  
14    have done that?

15          A.     I probably would have gotten killed, too.

16          Q.     So you were scared of him?

17          A.     Yes.

18          Q.     You were scared of him on March 6, 2014?

19          A.     Yeah, I guess. I mean, we weren't beefing  
20    or anything, so it was -- we were okay. We were  
21    cool.

22          Q.     But you were scared of what would happen  
23    if you didn't take the actions that he wanted you to  
24    take?

25          A.     Definitely.

1 Q. And that's something that continued  
2 through the day of the murder, and well after the  
3 murder to the time that you drafted that letter; is  
4 that right?

5 A. Yes, ma'am.

6 Q. Now, you talked about going up to the  
7 Penitentiary of New Mexico and being there with Mr.  
8 Montoya; right?

9 A. Yes.

10 Q. And Mr. Rodriguez?

11 A. Yes, ma'am.

12 Q. And Mr. Martinez?

13 A. Yes, ma'am.

14 Q. And Mr. Cordova was there, too?

15 A. Yeah, he came at a later date, but he came  
16 back, yes.

17 Q. Okay. So you and the other three  
18 individuals who participated in the hands-on killing  
19 of Mr. Molina were up there together?

20 A. Um-hum.

21 Q. And also Mr. Cordova was there?

22 A. He was. Yeah, he was there.

23 Q. And you all discussed, did you not, what  
24 had happened during the course of the murder?

25 A. With Billy?



1 Q. Yes.

2 A. No.

3 Q. Just the four of you discussed it?

4 A. Yes.

5 Q. Did you discuss it with anybody else?

6 A. No.

7 Q. And were you all housed together at PNM?

8 A. Martinez -- Mr. Martinez and Montoya and  
9 Rodriguez were in W pod. At first they were -- we  
10 were in 3-A. So they were in Q pod. We were -- I  
11 was in R pod. And then we got moved to 3-B, the  
12 Unit 3-B, where they went to W pod, those three.  
13 And I was in X pod. A couple weeks after that is  
14 when Mr. Billy Cordova came.

15 Q. And if you were not all housed together in  
16 neighboring cells, how was it that you had occasion  
17 to discuss the murder together?

18 A. We would go outside and get next to each  
19 other in the rec yards.

20 Q. Okay. And so everybody was able to do  
21 that together when you had rec?

22 A. Not all the time. You had to talk to the  
23 COs, you know, say, "Hey, I want to talk to this  
24 guy. Can you put me next to him?"

25 Most of the time they didn't do it, but

1 sometimes they would oblige.

2 Q. Okay. You know, don't you, that there  
3 were a lot of rumors in 2014 and 2015 about what had  
4 happened to Javier Molina?

5 A. Yes.

6 Q. And those rumors were flying around PNM?

7 A. Yes.

8 Q. And you know, sitting here today, don't  
9 you, that that's how Mr. Billy Cordova learned about  
10 what may or may not have happened?

11 A. I'm not too sure on the facts of what he  
12 learned of what happened.

13 Q. You don't personally know?

14 A. I don't sit there and talk with the man.  
15 Like I said, he's not my friend. We are  
16 acquaintances.

17 Q. It hasn't come to your attention since  
18 then that that is how Mr. Cordova learned these  
19 rumors about the murder?

20 A. Yeah.

21 Q. And at the time, were you aware that there  
22 were rumors that Mr. Perez was talking to the  
23 Government?

24 MR. CASTELLANO: Objection, calls for  
25 hearsay.

1 Q. If you were aware?

2 MR. CASTELLANO: Objection, calls for  
3 hearsay.

4 THE COURT: Lay a foundation how he might  
5 know this, and we'll see whether it's coming from  
6 other sources.

7 BY MS. FOX-YOUNG:

8 Q. Mr. Armenta, you testified that you were  
9 aware that there were lots of rumors going on at PNM  
10 about what had happened to Javier Molina; right?

11 A. Yes, ma'am.

12 Q. And about who had participated in the  
13 murder?

14 A. Yes, ma'am. Yeah, I was there. So yeah,  
15 I mean, I can confirm or deny any facts or rumors  
16 that were being spread around.

17 Q. You were there and you were having these  
18 conversations?

19 A. Yes, ma'am.

20 Q. And so people at PNM were talking about  
21 how many times you stabbed Javier Molina?

22 A. Well, nobody actually knew that. They  
23 didn't know exactly the detailed facts of the case.

24 Q. Nobody but you and Jerry Montoya and Mario  
25 Rodriguez and Timothy Martinez?

1 A. Yes.

2 Q. And there were also rumors about how many  
3 times Mr. Montoya stabbed Javier Molina?

4 A. Like I said, there were rumors, but nobody  
5 knew exactly how many.

6 Q. And was there discussion of Tim Martinez  
7 coming behind Javier Molina and choking him out?

8 A. Yes.

9 Q. And was there also discussion of  
10 Mr. Molina trying to pry Tim Martinez' hands off of  
11 his neck?

12 A. I don't think so, because when I witnessed  
13 that happen, he did not put up a fight at all.

14 Q. Well, that's because Mario Rodriguez was  
15 holding his arms down; right?

16 A. No.

17 Q. You don't recall that?

18 A. No, I don't. Mario's back was to me. So  
19 I don't remember seeing him anything -- doing  
20 anything like that.

21 Q. Okay. And so anyway, there was a lot of  
22 discussion after you were transported to PNM about  
23 the details of the murder; right?

24 A. Some.

25 Q. And was there also discussion of who might

1 and might not be talking to the Government?

2 A. At the time, no. They accused me, because  
3 when the discovery -- when we finally got the  
4 discovery, my statement was there where I said that  
5 I was standing by the front door, and that I -- when  
6 he was getting beat up, and this and that. So they  
7 were trying to say that I was making statements.

8 Q. People thought you were talking to the  
9 Government?

10 A. Yes.

11 Q. And you were?

12 A. At that time, no. Not till later. Not  
13 till later is when I started talking to the  
14 Government.

15 Q. And you heard about that when you were at  
16 PNM?

17 A. Yes.

18 Q. And you discussed it with other people?

19 A. Yes.

20 Q. And at that time you didn't want to appear  
21 weak; right?

22 A. Well, I really didn't talk to anybody  
23 other than Eric Duran. He was my neighbor, so --

24 Q. I thought you also talked to all the other  
25 killers.

1           A.     Well, out in yard. That's an hour. And I  
2     barely go outside, maybe twice a week.

3           Q.     Right. And you talked on Friday, did you  
4     not, about how important it is not to appear weak  
5     with all those other guys?

6           A.     Of course.

7           Q.     You talked about the fact that there is  
8     not a CO or a nurse or a cop who could get in the  
9     way of one of those guys killing you if they want  
10    to; right?

11          A.     Yes, ma'am.

12          Q.     So when the rumors were circulating up at  
13    Santa Fe that you were a Government witness, you  
14    didn't want to appear weak; right?

15          A.     Right.

16          Q.     You had to do something to protect  
17    yourself in the face of those rumors?

18          A.     If it came down to it, of course, I would  
19    defend myself.

20          Q.     And sometimes was that big talk?

21          A.     No. I'm not going to let somebody just  
22    kill me without a fight. I mean, if they kill me,  
23    they kill me. But I'm going to fight. I'm not just  
24    going to sit there and let them.

25          Q.     Okay. So you said there were rumors about

1 you being a Government witness at that time. Do you  
2 personally know if there were rumors about Mr. Rudy  
3 Perez being a Government witness?

4 A. No.

5 MR. CASTELLANO: Hearsay.

6 MS. FOX-YOUNG: Your Honor, it's not  
7 offered to prove the truth.

8 THE COURT: Well, I think it is being  
9 offered. Sustained.

10 BY MS. FOX-YOUNG:

11 Q. And so how long did you stay at PNM?

12 A. I got there in September 2014, and I  
13 stayed there until October of 2015.

14 Q. And then where did you go?

15 A. I went -- I came back down to Southern for  
16 a court hearing. That was when I was coming down to  
17 plead guilty for the state.

18 Q. And where were you around the time that  
19 Mr. Munoz drafted that letter to the warden for the  
20 party that you're all going to have?

21 A. We were back at the North penitentiary.

22 Q. So when did you get back to the North?

23 A. May of 2016.

24 Q. And that's when you started rooming with  
25 Mr. Roy Martinez?

1 A. No, Mr. Martinez didn't come until  
2 September of 2016.

3 Q. Okay. And I think you said when you were  
4 answering some questions from Ms. Jacks that it  
5 wasn't until December, about December of 2016 that  
6 you figured out how to get on the internet and  
7 really make use of your tablet in a number of ways  
8 that were not authorized?

9 A. That was -- we didn't know about the  
10 internet until we got to Sandoval County. It was  
11 reset, like, you know, the end of 2016 or '17,  
12 beginning of 2017. January, something like that.

13 Q. But you actually did have some internet  
14 activity in the fall of 2016, did you not?

15 A. No.

16 MS. FOX-YOUNG: Your Honor, may I approach  
17 the witness?

18 THE COURT: You may.

19 BY MS. FOX-YOUNG:

20 Q. Mr. Armenta, do you remember making these  
21 Facebook posts in September 2016?

22 A. Yeah. My fiancée did that.

23 Q. Oh, your fiancée did it for you?

24 A. Yes.

25 Q. And she would log into your Facebook



1 account?

2 A. Yes.

3 Q. And she posted, "After everything I've  
4 been through, I'm still smiling, not because I'm  
5 strong, but because I'm crazy"?

6 A. Yes.

7 Q. "Now, that should scare you"?

8 A. Scare me?

9 Q. That was the post. She said, "Because I'm  
10 crazy, now that should scare you"?

11 A. She put all that, yes.

12 Q. And you asked her to do that?

13 A. No, I told her just to beef it up, do  
14 whatever she had to do.

15 Q. Do whatever she had to do, why?

16 A. Because I asked her to.

17 Q. And so when did you actually take control  
18 of your Facebook account and start posting yourself?

19 A. January 2017. Early February, something  
20 like that.

21 Q. Okay. And so that was well after the time  
22 when you said you had rejected all those beliefs and  
23 values of the SNM?

24 A. Yes.

25 Q. And you had rejected the thug life at that

1 point?

2 A. Yes.

3 MS. FOX-YOUNG: Your Honor, I move the  
4 admission of Defendants' FF.

5 MR. CASTELLANO: I don't know what it is,  
6 Your Honor.

7 THE COURT: Why don't you take a look at  
8 it?

9 MR. CASTELLANO: I object, based on  
10 hearsay grounds and foundation.

11 THE COURT: Why don't y'all approach and  
12 let me look at the exhibit here.

13 (The following proceedings were held at  
14 the bench.)

15 THE COURT: What do we have here?

16 MS. FOX-YOUNG: Your Honor, this is a  
17 Facebook post of Mr. Armenta's. It's offered to  
18 show bias and also to impeach him. He was done with  
19 the thug life as of January. This is from Armenta.  
20 We can lay the foundation in terms of the dates.  
21 The dates are already in in terms of when he was  
22 using the tablet. And I can have him authenticate  
23 his profile. It's on the second page that she  
24 posted as well as the subsequent postings.

25 THE COURT: I think you can certainly

1 impeach him with it. But I'm not sure that any  
2 statements should be coming in if you're trying to  
3 get them in for the truth of the matter.

4 MR. CASTELLANO: I'm also concerned that  
5 there are personal photos in there of the defendant.

6 THE COURT: If they redact out the  
7 personal photos, would that be all right with the  
8 Government, if they redacted them?

9 MR. CASTELLANO: It's an additional  
10 grounds for the objection.

11 MS. FOX-YOUNG: Your Honor, he posted this  
12 on the internet for all to see.

13 THE COURT: I think you can certainly  
14 question him about it. I think you can impeach him  
15 with it. It's a little hard to tell whether it's  
16 impeachment material. But I assume that's what  
17 you're trying to do with it. So I won't let the  
18 exhibit in, but I'll let you impeach him.

19 MS. FOX-YOUNG: Just for the record, I  
20 think it also shows bias in the same way the video  
21 does, his misuse of the tablets.

22 THE COURT: You can impeach him with it,  
23 but it's not going to come into evidence.

24 MR. CASTELLANO: I didn't see a Bates No.  
25 on there.

1 MS. FOX-YOUNG: It's not Bates; it's from  
2 the tablets.

3 MR. CASTELLANO: Oh, it's from the  
4 tablets?

5 MS. FOX-YOUNG: Can I publish it?

6 THE COURT: All right.

7 (The following proceedings were held in  
8 open court.)

9 THE COURT: Ms. Fox-Young.

10 MS. FOX-YOUNG: Thank you, Your Honor.

11 BY MS. FOX-YOUNG:

12 Q. So Mr. Armenta, in January of 2016, you  
13 were done with the thug life?

14 A. I was done. Yeah, I'm not trying to live  
15 that way anymore.

16 MS. FOX-YOUNG: Your Honor, may I  
17 approach?

18 THE COURT: You may.

19 BY MS. FOX-YOUNG:

20 Q. Do you recognize this document?

21 A. Yes.

22 Q. Is this a printout from your Facebook  
23 account?

24 A. Yes.

25 Q. And Mr. Armenta, do you see this posting

1 from April 16, 2017?

2 A. Yes, ma'am.

3 Q. And I think it was your testimony that  
4 that's about the time that the tablets got seized;  
5 right?

6 A. Yes, ma'am.

7 Q. It was almost your last posting.

8 A. Yes, ma'am.

9 Q. Do you see where you said, "Thug life,  
10 baby"?

11 A. Yeah.

12 Q. That's you?

13 A. Yeah.

14 Q. So you weren't done with the thug life?

15 A. I was done with it because of Tupac. He  
16 had always represented the thug life. So that was a  
17 Tupac thing.

18 Q. He's an idol of yours?

19 A. He's the best rapper ever to live.

20 Q. You also posted a photograph of yourself  
21 as a profile picture from jail; right?

22 A. Yes, ma'am.

23 Q. How did you take that picture?

24 A. With the tablet.

25 Q. While you're in your underwear?

1 A. No. It was without a shirt.

2 Q. Did you also communicate with individuals  
3 through your Facebook page?

4 A. My fiancée.

5 Q. The party that was held two days before  
6 Christmas in 2016 that you guys asked for the  
7 banquet?

8 A. Yes, ma'am.

9 Q. Do you remember who was there?

10 A. Yes.

11 Q. Who was there?

12 A. A lot of people. Me, my family, my mom,  
13 my nieces, my fiancée, Benjamin Clark, his mom, his  
14 fiancée, and --

15 Q. He's another Government witness?

16 A. Yes. Robert Martinez.

17 Q. Another Government witness?

18 A. Yes. All these are Government witnesses.

19 Q. Billy Cordova?

20 A. Billy Cordova, Gerald Archuleta, Roy  
21 Martinez, Paul Rivera, and Javier Rubio.

22 Q. Anybody who worked for the Government?

23 A. Yes.

24 Q. Who was there for the Government?

25 A. Bryan Acee, Ms. Nancy showed up. I don't

1 know --

2 Q. Would that be Nancy Stemo, another FBI  
3 agent?

4 A. Yes, ma'am.

5 Q. Who else?

6 A. I believe it was just them two.

7 Q. Any of the prosecutors?

8 A. No.

9 Q. You invited the prosecutors?

10 A. Yes.

11 Q. And anybody from the prison? Did the  
12 Warden come?

13 A. Yes.

14 Q. Warden Franco?

15 A. Warden Franco, yes.

16 Q. And Mr. Marcantel?

17 A. No, he did not go.

18 Q. Jerry Roark?

19 A. I don't think he was there either.

20 Q. Anybody else from the prison?

21 A. No -- STIU members, Mr. Franco, and just  
22 staff that were there.

23 Q. Mr. Sapien?

24 A. Mr. Sapien, yes.

25 Q. Mr. Cupit?

1 A. Cupit.

2 Q. Anybody else?

3 A. No.

4 Q. And did you have occasion to talk to Agent  
5 Acee and Agent Stemo at that party?

6 A. I introduced them to my mother and to my  
7 fiancée. Yes, I did.

8 Q. Did you talk about any of the details of  
9 the Molina murder at that party?

10 A. No.

11 Q. Did you talk to anybody at that party  
12 about any of the details of the Molina homicide?

13 A. Definitely not.

14 Q. Definitely not?

15 A. No.

16 Q. Did you talk about the contact visits that  
17 you were receiving at that party?

18 A. No.

19 Q. Did you have a contact visit at that  
20 party?

21 A. Yes.

22 Q. Did you have a contact visit where you  
23 were able to engage in sexual activity at that  
24 party?

25 A. No.



1 Q. Are you sure?

2 A. Positive.

3 Q. And did you have occasion to talk to the  
4 warden at that party?

5 A. Yes.

6 Q. About how you'd reformed yourself?

7 A. No, he talked to me about my sister,  
8 because they denied her coming in. They had  
9 canceled her visits or took her off my visiting list  
10 because of an incident that happened with my  
11 brother, like, a year or two before.

12 Q. Okay. And you all had pizza together?

13 A. Yes.

14 Q. And sat around the table and celebrated?

15 A. They all left. They said a few words,  
16 they talked to our family, let them know that we  
17 came a long way from living that life that we were  
18 living; and what we're doing now it's honorable,  
19 it's a good thing, and --

20 Q. So they didn't know that at that same time  
21 you were using your tablets to search for teenage  
22 porn?

23 A. I wasn't searching for teenage porn.

24 Q. And that you were using your tablet to get  
25 on Facebook?

1 A. We didn't have internet at the prison.

2 Q. And they didn't know about the contact  
3 visits that you'd been having?

4 A. No, they did not.

5 Q. And were you using Suboxone at that party?

6 A. No.

7 Q. Was anybody?

8 A. To my knowledge, no.

9 Q. Was Timothy Martinez at that party?

10 A. No.

11 Q. Was he invited?

12 A. He wasn't there.

13 Q. Subsequently, I think you said you were  
14 housed at Sandoval County?

15 A. Yes, ma'am.

16 Q. And is that where you wrote the letter to  
17 the lunch ladies?

18 A. Yes.

19 Q. And at Sandoval County you know that  
20 Timothy Martinez was dealing Suboxone; right?

21 A. He wasn't dealing like a big old drug  
22 dealer. I mean, he got some, he got some, and he  
23 would always have extra, and we'd buy from him.

24 Q. You were buying it from him?

25 A. I bought a few times from him.

1 Q. And Roy Martinez was buying from him?

2 A. Yes.

3 Q. And that went on until when?

4 A. Till when we all left from Sandoval  
5 County. It happened at different times. Not all  
6 the time. It wasn't a steady thing.

7 Q. What month did you leave Sandoval County?

8 A. September.

9 Q. So from May until September of 2017, you  
10 were there?

11 A. No. From January of 2017 to September of  
12 2017.

13 Q. Okay. So for that nine-month period  
14 Timothy Martinez was dealing Suboxone?

15 A. Every once in a while.

16 Q. And you were buying?

17 A. Yes.

18 Q. And Roy Martinez was buying for that  
19 nine-month period?

20 A. Yeah.

21 Q. Who else was buying?

22 A. Everybody.

23 Q. And who else was selling?

24 A. Nobody.

25 Q. Just Timothy Martinez?

1 A. Yeah.

2 Q. It was pretty easy to get?

3 A. Everybody else would do theirs. If they  
4 got it, they would do it. They ain't going to sell  
5 it.

6 Q. Timothy Martinez was the only one bringing  
7 it in?

8 A. He wasn't bringing it in. We would buy it  
9 from the pods next door, from the women, or  
10 whatever. And then most of us would just do ours.  
11 If we bought it, we would do it all. He would do a  
12 little bit, but he wasn't the type that is steady  
13 doing it. So he would save some. And if anybody  
14 else wanted some later on in the days or weeks, he  
15 would have extra, and we would make a deal and buy  
16 it off him.

17 Q. And Mr. Timothy Martinez is also a  
18 Government witness; is that right?

19 A. Yes, ma'am.

20 Q. Do you know if he's been prosecuted for  
21 dealing Suboxone, or charged?

22 A. I have no aware of that. I'm not aware of  
23 that.

24 Q. And so for this nine-month period when you  
25 were using Suboxone in Sandoval County, were you

1 also meeting with the Government?

2 A. I hadn't met with them since -- I haven't  
3 seen them since the banquet at the Penitentiary of  
4 New Mexico.

5 Q. You didn't talk to Special Agent Acee?

6 A. I sent him an email.

7 Q. When is the last time you used Suboxone?

8 A. December of last year.

9 Q. A month and a half ago?

10 A. Yeah.

11 Q. Where were you?

12 A. I was in Otero County jail.

13 Q. Who did you that Suboxone from?

14 A. Guys that were coming in, strangers.

15 Q. Government witnesses?

16 A. No.

17 Q. I think you said -- correct me if I'm  
18 wrong -- but at the time that you participated in  
19 the killing of Javier Molina, you had about 40 days  
20 left before you were going home?

21 A. Just about.

22 Q. Do you know how much time you have left on  
23 your sentence right now? I assume you lost some  
24 good time.

25 A. Yeah, that case is done, it's over with,

1 that sentence. But while I was pending this murder  
2 case, I went -- I was fighting a trafficking case  
3 out of Bernalillo County.

4 Q. What were you accused of trafficking?

5 A. Heroin. And I ended up taking a plea for  
6 12 years.

7 Q. And so you have a 12-year sentence?

8 A. Yes.

9 Q. And how much remains on that?

10 A. Until -- with good time, until May of  
11 2020.

12 Q. And so you've not yet been sentenced in  
13 this case?

14 A. No, ma'am, I have not.

15 Q. But if you do, if the Government does find  
16 that you provided substantial assistance and they  
17 move for a downward departure, they move to reduce  
18 your sentence, you'd be facing a concurrent  
19 sentence; right?

20 A. Well, to my knowledge, I thought federal  
21 and state are consecutive once -- if I'm -- I mean,  
22 I'm doing a sentence already, so yeah, I guess it  
23 would be concurrent.

24 Q. So if you are sentenced and given  
25 concurrent time in this case?

1 A. Yes, ma'am.

2 Q. And given -- say -- you said -- did you  
3 say early 2020?

4 A. Yes.

5 Q. May of 2020?

6 A. Yes.

7 Q. You scheduled it out?

8 A. Yes.

9 Q. Say you get sentenced in May of 2018 and  
10 you get a two-year sentence in this case, you'd be  
11 out on the streets in May of 2020; is that right?

12 A. Yes, ma'am.

13 Q. If it's concurrent?

14 MS. FOX-YOUNG: No further questions, Your  
15 Honor.

16 THE COURT: Thank you, Ms. Fox-Young.  
17 Ms. Duncan.

18 MS. DUNCAN: May I have a moment, Your  
19 Honor?

20 THE COURT: Certainly.

21 CROSS-EXAMINATION

22 BY MS. DUNCAN:

23 Q. Good morning.

24 A. Good morning.

25 Q. I just have a few questions for you. I

1 wanted to follow up on your testimony regarding Roy  
2 Martinez resetting his tablet.

3 A. Okay.

4 Q. And then you asked him to reset your  
5 tablet?

6 A. Yes, ma'am.

7 Q. And did he do that?

8 A. Yes, ma'am.

9 Q. And to your knowledge, did Mr. Martinez  
10 reset any other of the Government witnesses' tablet?

11 A. Most of ours, all of ours.

12 Q. So he personally reset the tablets for the  
13 other Government witnesses?

14 A. Yes.

15 Q. And do you know who -- whose tablet did he  
16 reset?

17 A. It was his own, Frederico Munoz, Benjamin  
18 Clark, Paul Rivera -- no, Paul Rivera's was not till  
19 later. Yeah, that's it.

20 Q. What about Gerald Archuleta?

21 A. Oh, yes, Gerald Archuleta. Yes, ma'am.

22 Q. And Timothy Martinez?

23 A. Timothy Martinez' didn't get reset until  
24 Sandoval County.

25 Q. And do you know who reset Timothy



1 Martinez'?

2 A. I believe it was Roy, too. He was the one  
3 that knew how to do it. He figured it out. So he  
4 was -- yeah, he did it.

5 Q. And do you know when did Timothy Martinez  
6 reset -- or when did Roy Martinez reset Timothy  
7 Martinez' tablet?

8 A. It was in Sandoval County, so I would say  
9 after January 13, when we got transported over  
10 there.

11 Q. You also said that Paul Rivera's tablet  
12 was reset?

13 A. Yes.

14 Q. Was that set at Sandoval County?

15 A. Yes.

16 Q. And also by Roy Martinez?

17 A. Yes.

18 Q. You were asked some questions about who  
19 you were housed with at different time periods. And  
20 I want to clarify. I wanted to understand exactly  
21 which of the other Government witnesses you've lived  
22 with.

23 A. Okay.

24 Q. So if we could start with when you decided  
25 to cooperate in 2015. So that was in February or

1 March of 2015; correct?

2 A. Yes, ma'am.

3 Q. At that time you were housed with Eric

4 Duran; correct?

5 A. Yes.

6 Q. Was there anyone else who is a cooperating  
7 or Government witness housed with you at that time?

8 A. Robert Martinez and Roy Martinez.

9 Q. And were you in the same pod with Roy and  
10 Robert Martinez?

11 A. Yes.

12 Q. Eventually, were you moved out of that  
13 pod?

14 A. Yes. I went to a court hearing in June --  
15 or the end of May; you know, it dragged on into  
16 June. But I moved out of that pod for that. And  
17 then when I came back, I was in W pod.

18 Q. And for how long were you in W pod?

19 A. Two and a half months, two months.

20 Q. Were any of the Government witnesses  
21 housed with you in W pod?

22 A. Yes, Jerry Montoya and Lupe Urquizo.

23 Q. After -- so you said that you were there  
24 for two and a half months. Where did you go when  
25 you moved out of W pod?

1           A.     I went to the Dona Ana County Detention  
2 Center to have that meeting with Mr. Montoya's  
3 attorney and the district attorney and my attorney.

4           Q.     And were any Government witnesses housed  
5 in Dona Ana County with you?

6           A.     Benjamin Clark was there on a different  
7 case. He was pleading out for something that  
8 happened there.

9           Q.     And were you in cells where you could  
10 communicate with each other?

11          A.     No, he was about four or five doors down  
12 from me.

13          Q.     Were you ever able to communicate with  
14 Benjamin Clark while you were at Dona Ana County?

15          A.     Every once in a while. We were usually on  
16 the phone when we had our time-outs, so there was a  
17 couple of minutes where we'd get a couple of words  
18 in. But that's about it.

19          Q.     So when did you leave Dona Ana County  
20 Detention Center?

21          A.     I would say like three or four days after  
22 the interview with the attorneys.

23          Q.     In September of 2015?

24          A.     Yes, ma'am.

25          Q.     Where did you go?

1 A. Back to the North, Santa Fe.

2 Q. And what pod -- what housing unit and pod  
3 did you go back to?

4 A. I went to 2-A pod. 2J. Unit 2-A. J pod.

5 Q. And were any of the Government witnesses  
6 housed with you at that time?

7 A. No.

8 Q. How long were you in 2-A, J pod?

9 A. Two months.

10 Q. So when did you leave J pod?

11 A. When I got transported back down here to  
12 Las Cruces. But I went to Southern New Mexico  
13 Correctional Facility.

14 Q. Do you recall approximately when that was?

15 A. It was in November.

16 Q. And during the time that you were in J  
17 pod, there were no other Government witnesses with  
18 you?

19 A. I didn't talk to anybody in there. I  
20 don't know who was there. I don't know anybody's  
21 name or anything like that. I got moved to I pod  
22 later on, after J pod. I was there for about a  
23 month in J pod. Then I went next door to I pod,  
24 which was the RPP Program pod, which is the drop-out  
25 pod. And Benjamin Clark was in there.

1 Q. Let me just understand. So you were in J  
2 pod for about a month. Then you got moved to I pod.  
3 Then from I pod you went back to Dona Ana County; is  
4 that correct?

5 A. To Southern New Mexico.

6 Q. To Southern New Mexico Correctional  
7 Facility?

8 A. Yes.

9 Q. So when you were in I pod, was any other  
10 Government witness or any witness other than  
11 Benjamin Clark in that pod with you?

12 A. Nobody.

13 Q. So then you get to Southern New Mexico  
14 Correctional Facility approximately when?

15 A. In November 2015.

16 Q. And were there any Government witnesses  
17 housed with you in Southern New Mexico Correctional  
18 Facility?

19 A. No.

20 Q. How long were you at that facility?

21 A. I was there for a month.

22 Q. So you left Southern New Mexico in about  
23 December 2015?

24 A. December 3, the day that the indictment  
25 came down.

1 Q. And then where did you go?

2 A. For the night we went to MDC county jail,  
3 slept; went and seen the judge the next day. Then  
4 we were all -- cooperators, defendants -- we were  
5 all transported to Otero County prison facility.

6 Q. And when you were in Otero County prison  
7 facility, were you housed with any other Government  
8 witnesses?

9 A. Yes, I was next to Robert Martinez, Ruben  
10 Hernandez, and Benjamin Clark.

11 Q. Were you able to communicate with any  
12 other Government witnesses besides those three?

13 A. No.

14 Q. How long were you in Otero County  
15 Detention Center?

16 A. Four days.

17 Q. And where did you go after that?

18 A. To Grants, New Mexico, to Western  
19 Correctional Facility.

20 Q. And approximately when did you transfer to  
21 Western?

22 A. The 9th of December -- January 9, 2015.

23 Q. Once you got to Western, were you housed  
24 with any of the Government witnesses?

25 A. Yes.

1 Q. Who?

2 A. Robert Martinez, Ruben Hernandez, Benjamin  
3 Clark, Frederico Munoz, and Eric Duran.

4 Q. And for how long were you housed with  
5 those witnesses?

6 A. We were housed there together in Grants  
7 from December all the way until May of 2016.

8 Q. Were any other Government witnesses  
9 brought into that pod while you were there from  
10 December to May of 2016?

11 A. Yes, Flaco. I don't know his name.

12 Q. He's known by Flaco?

13 A. Yeah. I can't remember his full correct  
14 name.

15 Q. Anyone else?

16 A. No.

17 Q. So in May of 2016, where did you go?

18 A. We were transported back to the North  
19 facility in Santa Fe.

20 Q. Were you housed with any Government  
21 witnesses in the North facility?

22 A. Yes.

23 Q. Who?

24 A. The same ones in Grants including Billy  
25 Cordova.

1 Q. And how long were you in PNM North?

2 A. From that day, from that month, May all  
3 the way until January of 2017.

4 Q. And from May of 2016 to January of 2017,  
5 were any other Government witnesses moved into the  
6 pod with you?

7 A. Yes, there was Roy Martinez, Gerald  
8 Archuleta, Paul Rivera, and Timothy Martinez. And  
9 Javier Rubio.

10 Q. Was Eric Duran housed with you at PNM  
11 North during that time?

12 A. Yes.

13 Q. Is there anyone else who we haven't  
14 mentioned who was housed with you?

15 A. No, ma'am.

16 Q. So I think in January of 2017 you were  
17 moved to Sandoval County; correct?

18 A. Yes, ma'am.

19 Q. And how long were you at Sandoval County?

20 A. About nine months; eight and a half, nine  
21 months.

22 Q. And who of the Government witnesses were  
23 with you at Sandoval County?

24 A. It was Flaco, but he was in a sep cell.  
25 Jerry Montoya, Paul Rivera, Frederico Munoz, Timothy



1 Martinez, myself, Ben Clark, Gerald Archuleta, Roy  
2 Martinez, and that's it. There was -- Leonard Lujan  
3 was there, but he wasn't with us or around us,  
4 anything like that.

5 Q. Was Robert Martinez with you?

6 A. He was there for a couple of days, but  
7 then he went himself to a sep cell. He wanted to be  
8 alone, by himself.

9 Q. When you say "sep cell," what is that?

10 A. Separate cell.

11 Q. Is that like isolation?

12 A. Yeah, like segregation type.

13 Q. So then you left Sandoval County, and  
14 where did you go?

15 A. I went to Otero County.

16 Q. When was that?

17 A. September.

18 Q. So September of 2017?

19 A. Yes, ma'am.

20 Q. And at Otero County were you housed with  
21 any Government witnesses?

22 A. I was housed with other Government  
23 witnesses, but we were all on different tiers. I  
24 was by myself on one tier. Ben Clark was on another  
25 tier. And then a few other guys were there that I

1 wasn't quite sure if they were Government witnesses,  
2 but they were there with us.

3 Q. And who were those other guys?

4 A. Edward Troup and Christopher Garcia.

5 Q. And were you able to communicate with  
6 Benjamin Clark in that tier?

7 A. No. I could have if I would have yelled  
8 and, you know, talked all loud on the tier. But we  
9 never did that.

10 Q. Are you aware whether other Government  
11 witnesses were at Otero County with you?

12 A. Not till later. Jerry Montoya showed up,  
13 Lupe Urquizo showed up, and Mario Montoya showed up.

14 Q. And when did they show up?

15 A. They all came within a few weeks of each  
16 other. Marijuano, Lupe Urquizo, he came sometime  
17 the first two weeks of November. Jerry Montoya came  
18 early January of this year, and Mario Montoya, I  
19 believe, around the same time.

20 Q. And are there any other Government  
21 witnesses who came to Otero County while you've been  
22 there?

23 A. No, not to my knowledge.

24 Q. Now, are you currently housed with  
25 Government witnesses?

1 A. Yes, ma'am.

2 Q. Who are you currently housed with?

3 A. I'm housed with Javier Rubio, Eric Duran,  
4 Billy Cordova, Mario Rodriguez, Timothy Martinez,  
5 Robert Martinez, Frederico Munoz, David Calbert, and  
6 Roy Martinez. Oh, Gerald Archuleta just got there  
7 the other day.

8 Q. So tell us -- so when did you first --  
9 when were you first housed with -- I think you said  
10 with Mario Rodriguez that it was in January? So are  
11 you currently housed with Mario Rodriguez?

12 A. Right now, yes.

13 Q. And when did he get to the pod?

14 A. I actually came to the pod. He was there  
15 first.

16 Q. Okay. How about Javier Rubio?

17 A. He was already in the pod when he got  
18 there.

19 Q. So when did you get to this pod where the  
20 other people are housed?

21 A. Two weeks ago, like a week before the jury  
22 selection.

23 Q. And do you know how long the people -- so  
24 the people who are in the pod when you arrived, how  
25 long they had been together when you got there?

1           A.     Days -- it was all within a week that we  
2 all got there.

3           Q.     Is there anyone else who is housed with  
4 you right now who is a cooperator or Government  
5 witness?

6           A.     No.   Jerry Montoya is at the facility, but  
7 he's in a different pod; same unit, different pod.

8           Q.     And while you've been here at the  
9 courthouse to testify, have you been in a holding  
10 cell with any of the other Government witnesses?

11          A.     No, we're in separate cells.

12          Q.     Are you in the same pod?

13          A.     Yes.

14                THE COURT:   Ms. Duncan, would this be a  
15 good time for us to take our second morning break?

16                MS. DUNCAN:   It would, Your Honor.

17                THE COURT:   All right.   We'll be in recess  
18 for about 15 minutes, then I think we'll take a  
19 little bit of a late lunch, given the way the breaks  
20 are falling this morning.   All rise.

21                (The jury left the courtroom.)

22                THE COURT:   All right.   We'll be in recess  
23 for about 15 minutes.

24                (The Court stood in recess.)

25                THE COURT:   All right.   We'll go on the

1 record. Deputy Mickendrow has given me a report  
2 from Dona Ana County Detention Center about Mr.  
3 Perez' commissary purchases for a number of dates.  
4 So I'm going to mark this as Exhibit K to the  
5 Clerk's minutes. And Mr. Perez -- I mean Mr. Villa  
6 and Ms. Fox-Young, y'all might take a look at it,  
7 but I'll mark it as Exhibit K to the clerk's  
8 minutes.

9 MR. VILLA: Your Honor, before it's  
10 actually admitted, can we look at it to determine if  
11 any redaction might be appropriate?

12 THE COURT: You can take a look at it, but  
13 I don't think there will be any redactions that are  
14 appropriate.

15 MR. VILLA: It will be sealed?

16 THE COURT: We can seal it. But I don't  
17 want it to be ex parte. I think it should be  
18 something that the parties have access to.

19 MR. VILLA: That's fine, Your Honor.

20 MR. CASTELLANO: Your Honor, I think we  
21 have some discovery outstanding from the defense.  
22 Ms. Fox-Young, at the questioning of Mr. Armenta,  
23 indicated that we had provided that Facebook  
24 document to the defense. We actually had not. We  
25 provided the tablets to them, and they were supposed

1 to provide us the results of those tablets. So I  
2 think we have some information we're still awaiting  
3 from the defense.

4 Mr. Lowry, on Friday, did produce to us  
5 four Excel spreadsheets which had a summary of what  
6 was on the tablets. But I think we're still missing  
7 some information from that search. So we gave them  
8 the tablets, and they were supposed to give us the  
9 results from the tablets. So I think we still have  
10 outstanding material.

11 THE COURT: This would be for Mr. Perez?

12 MR. CASTELLANO: Maybe from all the  
13 defendants. I'm not sure. But this particular  
14 document which Ms. Fox-Young approached the bench  
15 with was a Facebook printout, and that was a result  
16 from the searches. So that actually had not been  
17 disclosed to us. We're just seeking the additional  
18 information that was found on the tablets.

19 THE COURT: But you think you're okay with  
20 Mr. Baca, what he's produced?

21 MR. CASTELLANO: Yes. I mean, I don't  
22 know the universe of documents that are coming from  
23 there. All I know is there were four spreadsheets,  
24 but it didn't have documents like Ms. Fox-Young had  
25 in court. So I'm saying there might be a summary

1 of, for example, internet searches and things of  
2 that nature. But things like what she had this  
3 morning we had not seen yet.

4 MS. FOX-YOUNG: Your Honor, may I respond?

5 THE COURT: Yeah. Why don't y'all maybe  
6 talk during the break, and see if y'all can satisfy  
7 the Government as to what it is they're looking for,  
8 and we can then take it up at that time.

9 MS. FOX-YOUNG: Well, Judge, I just think  
10 it was a public internet search. And I'm happy to  
11 provide that document. But I don't think we have  
12 anything further to provide STIU.

13 MR. LOWRY: Your Honor, I want to point  
14 out they have everything that we have from the  
15 forensic analysis.

16 THE COURT: All right. All rise.

17 (The jury entered the courtroom.)

18 THE COURT: All right. Everyone be  
19 seated.

20 Mr. Armenta, I'll remind you that you're  
21 still under oath.

22 THE WITNESS: Sure.

23 THE COURT: Ms. Duncan, if you wish to  
24 continue your cross-examination of Mr. Armenta, you  
25 may do so at this time.

1 MS. DUNCAN: Thank you, Your Honor.

2 THE COURT: Ms. Duncan.

3 BY MS. DUNCAN:

4 Q. Mr. Armenta, right before the break we  
5 were talking about the Government witnesses you're  
6 currently housed with.

7 A. Yes, ma'am.

8 Q. And my understanding is you all have been  
9 housed together for over two weeks; is that correct?  
10 That's when you got moved into the pod, about two  
11 weeks ago?

12 A. Yes, ma'am.

13 Q. So I want to make sure I have a complete  
14 list of who have been housed together. I think you  
15 mentioned Javier Rubio.

16 A. Yes, ma'am.

17 Q. Eric Duran?

18 A. Yes, ma'am.

19 Q. Billy Cordova?

20 A. Yes, ma'am.

21 Q. Mario Rodriguez?

22 A. Yes, ma'am.

23 Q. Frederico Munoz?

24 A. Yes, ma'am.

25 Q. David Calbert?



- 1 A. Yes, ma'am.
- 2 Q. Roy Martinez?
- 3 A. Yes.
- 4 Q. Robert Martinez?
- 5 A. Yes.
- 6 Q. How about Timothy Martinez?
- 7 A. Yes, ma'am.
- 8 Q. Gerald Archuleta?
- 9 A. Yes, ma'am.
- 10 Q. Mario Montoya?
- 11 A. No.
- 12 Q. Lupe Urquizo?
- 13 A. No.
- 14 Q. Has Mr. Urquizo ever been housed with you
- 15 at Otero County?
- 16 A. Yes.
- 17 Q. When was he housed with you?
- 18 A. From November -- early November,
- 19 mid-November, to when I got over here in January.
- 20 Q. Sammy Griego?
- 21 A. No.
- 22 Q. Have you ever been housed with Sammy
- 23 Griego?
- 24 A. No.
- 25 Q. Robert Lovato?

1 A. I've been housed with him before, but he's  
2 not housed now with us.

3 Q. When is the last time you were housed with  
4 Robert Lovato?

5 A. August of 2017.

6 Q. And where were you housed with Robert  
7 Lovato?

8 A. Sandoval County jail.

9 Q. And have you ever been housed with Mario  
10 Montoya?

11 A. Just recently when I was there. He came  
12 early January, maybe late December.

13 Q. So early January when you were at Otero  
14 County?

15 A. Yes, ma'am.

16 MS. DUNCAN: Thank you. I have no further  
17 questions, Your Honor.

18 THE COURT: Thank you, Ms. Duncan. Mr.  
19 Castellano, do you have redirect of Mr. Armenta?

20 MR. CASTELLANO: Thank you, Your Honor.

21 THE COURT: Mr. Castellano.

22 REDIRECT EXAMINATION

23 BY MR. CASTELLANO:

24 Q. Mr. Armenta, after you broke the rules,  
25 did you suffer the consequences in terms of having

1 no more contact visits?

2 A. Yes, I did.

3 Q. No more payments?

4 A. No more payments, no more contact visits.

5 Q. So did that all disappear once the  
6 Government found out about your misconduct?

7 A. Yes, sir.

8 Q. Now, in terms of your drug use at Sandoval  
9 County, how do we know that you used drugs at  
10 Sandoval County?

11 A. Because of that note that was intercepted,  
12 and I told you the truth when you asked about it.

13 Q. So do we know about your actual use  
14 because you actually disclosed that to the  
15 Government and the Government gave that information  
16 to the defense?

17 A. My actual use?

18 Q. Yes.

19 A. Meaning?

20 Q. When you used at Sandoval County.

21 A. Yes.

22 Q. Did anyone catch you using at Sandoval  
23 County?

24 A. No.

25 Q. So how do we know about that?

1 A. Because they caught that note. They  
2 intercepted it.

3 Q. Not about the note; about your actual use.

4 A. Oh, nobody. How do I know about it?  
5 Because I told you guys I was using it.

6 Q. Did you get caught with Suboxone?

7 A. No.

8 Q. Did Mr. Martinez get caught with Suboxone?

9 A. No. Timothy Martinez? No.

10 Q. Okay. So we know these things because we  
11 told you to tell us what you did and you told us?

12 A. Yes, sir.

13 Q. In terms of this timeline, do you remember  
14 having a meeting with the Government on January 23,  
15 2018?

16 A. Yes, sir.

17 Q. And do you remember at that time whether  
18 you stated, even before trial started, that Mr.  
19 Rodriguez stayed inside his cell and covered his  
20 window?

21 A. Yes.

22 Q. Do you recall, even before trial started,  
23 indicating that Mr. Herrera told you that he also  
24 ordered the hit on Mr. Molina?

25 A. Yes, I do.

1 Q. Going back to this timeline here, you  
2 testified earlier that in January 2015, you wrote a  
3 letter to Mr. Montoya's attorney?

4 A. Yes.

5 Q. And the purpose was to take the rap for  
6 everything?

7 A. Yes.

8 Q. And then in February of 2015, did you have  
9 a change of heart?

10 A. Yes.

11 Q. And that was after speaking with who?

12 A. With Eric Duran.

13 Q. After that time, did you then decide to do  
14 the right thing and tell the truth about what  
15 actually happened?

16 A. Yes, I did.

17 Q. Before this case was even indicted in  
18 December of 2015, did you disclose information to  
19 Government officials in September of 2015?

20 A. Yes, I did before. I did.

21 Q. And do you recall at that meeting whether  
22 you indicated that Mr. Sanchez had ordered you to  
23 murder Mr. Molina?

24 A. Yes.

25 Q. Did you also remember in that meeting

1 whether he told you that if you didn't do it, that  
2 you could be killed for refusing?

3 A. Yes.

4 Q. Was it your understanding that the  
5 paperwork for the Molina hit came from yellow pod,  
6 next door?

7 A. Yes.

8 Q. And I think you testified to us that Mr.  
9 Herrera was the llavero or the key-holder for that  
10 pod; is that correct?

11 A. Yes. The spokesperson, yes.

12 Q. So if the paperwork is coming through his  
13 pod, what are his responsibilities to make sure the  
14 hit happens?

15 MR. MAYNARD: Objection, Your Honor,  
16 speculation.

17 THE COURT: Why don't you lay some  
18 foundation?

19 MR. CASTELLANO: Sure.

20 BY MR. CASTELLANO:

21 Q. Do you know the rules of the gang?

22 A. Yes.

23 Q. And do you understand the responsibilities  
24 that leaders have within this gang?

25 A. Yes.

1 Q. And what happens if a leader gets a hit,  
2 an order to hit somebody? Does the order have to be  
3 followed by the leader?

4 A. Yes, it has -- it goes down like, I guess,  
5 the chain of command, it would go down. Whoever is  
6 in charge sends out the hit. Then whoever is next  
7 in line at that facility, they have to carry it out.

8 Q. Now, is that your understanding of the  
9 position that Mr. Herrera held in yellow pod?

10 MR. MAYNARD: Your Honor, that may be his  
11 understanding, but I still don't think there is a  
12 foundation.

13 THE COURT: I think there is. I think  
14 this is his understanding.

15 A. Yes.

16 THE COURT: Overruled.

17 BY MR. CASTELLANO:

18 Q. And the same thing with Mr. Sanchez as a  
19 leader of the blue pod?

20 A. Yes.

21 Q. And do they then delegate that order to  
22 you?

23 A. Yes. Well, Mr. Sanchez did.

24 Q. Now, in addition to information you gave  
25 about this case, I want to make sure I'm clear, I

1 don't want any names. But related to the Javier  
2 Molina murder, did you give law enforcement the  
3 names of other people who are also involved with the  
4 paperwork and things of that nature?

5 MS. DUNCAN: Your Honor, I'm going to  
6 object. May we approach?

7 THE COURT: It's a yes/no answer. We  
8 won't get into any names, but it's a yes/no answer  
9 at this point.

10 A. Can I hear the question again, please?

11 BY MR. CASTELLANO:

12 Q. Once again, without telling us names, did  
13 you give law enforcement the names of other people  
14 who were also involved with this murder scheme,  
15 including how the paperwork got to the facility?

16 A. Yes.

17 Q. Can you tell the members of the jury  
18 whether you also gave law enforcement information  
19 about the murder conspiracy on Gregg Marcantel?

20 A. Yes, I did.

21 Q. And what names did you give as involved  
22 with that murder conspiracy?

23 A. What names?

24 Q. Yes.

25 A. Who told me?



1 Q. Yes.

2 A. That would be Robert Martinez.

3 Q. And who else was involved that he told you  
4 about?

5 MS. DUNCAN: Your Honor, I'm going to  
6 object. This is eliciting hearsay.

7 THE COURT: Well, you can approach, but I  
8 think it's going to come under the co-conspirator  
9 exception.

10 MS. DUNCAN: Your Honor, can we approach?

11 THE COURT: You may.

12 (The following proceedings were held at  
13 the bench.)

14 THE COURT: The purpose of the James  
15 hearing was to establish who was part of that  
16 conspiracy. So I thought we had decided that this  
17 would come in.

18 MS. DUNCAN: Maybe some statement -- this  
19 statement was not on the Government's James list.  
20 And it wasn't elicited on direct. I don't know why  
21 it is on redirect. My understanding, the  
22 conversation with Mr. Martinez was after the fact.

23 MR. CASTELLANO: And the purpose of the  
24 names is, I'm clearing up when people were  
25 cooperating and when they weren't, and information

1 he gave about people who weren't even cooperating.  
2 Because the defense has muddied the water a little  
3 bit by saying the cooperators were housed with you.  
4 At the time he got the statement, these people were  
5 not cooperating. I'm trying to clear up who was  
6 cooperating and when.

7 THE COURT: I'm a little bit concerned  
8 about the timing of these. It doesn't give me an  
9 ability to see if they were in furtherance of --  
10 after the conspiracy, those things. I'm a little  
11 bit concerned about putting names out there, because  
12 it doesn't give me the ability to evaluate without  
13 some timeframe. Let's not do names, unless we want  
14 to go through the task either of having a James  
15 hearing or laying the timeframe for the statement,  
16 that it's clear that it was before that conspiracy  
17 came to an end, and before, or it was in furtherance  
18 of a conspiracy.

19 MR. CASTELLANO: Well, the purpose is to  
20 show that he gave information to law enforcement  
21 about other criminal activity. And they've already  
22 asked if these people have been housed with him, and  
23 housed with him at different times. And one of the  
24 reasons is to show that he turned over to law  
25 enforcement incriminating material on other people

1 at a time when those people were not cooperating.

2 THE COURT: Well, I think you can ask a  
3 general question. But I think we better stay away  
4 from statements that I think are going to be --  
5 could be hearsay, and I don't have a basis to  
6 determine otherwise.

7 MR. CASTELLANO: I'll stay away from the  
8 actual statements themselves. But I do intend to  
9 bring out that he gave information about people,  
10 without telling what they told him.

11 THE COURT: And if you want to object, you  
12 can, but I think probably if we keep it just as to  
13 when he's cooperating, it probably comes within the  
14 scope of the questioning that the defendants --

15 MS. DUNCAN: If I could make a record on  
16 that, Your Honor, because part of the problem is the  
17 information that Mr. Armenta provided about other  
18 people is hearsay, so it's suggesting to the jury  
19 that he provided information about other people  
20 involved. Obviously, Mr. Baca was charged with  
21 this. What he's referring to are statements that  
22 other people told him about Mr. Baca's involvement.  
23 So the Government didn't elicit it on direct,  
24 because it was hearsay. Now they're suggesting it  
25 to the jury. Whether he provided information about

1 other people is irrelevant, unless it's relevant to  
2 this. The bottom line, whether they're cooperating  
3 or not cooperating, it's hearsay. It's people  
4 telling him stuff.

5 MR. CASTELLANO: Ms. Fox-Young's entire  
6 line of questioning dealt with rumors with people  
7 when she tried to bring in the hearsay once again  
8 about Rudy Perez. So here, in this context, it's  
9 different because he can provide to law enforcement  
10 hearsay because he's pointing them in the right  
11 direction. I did not bring it out in direct  
12 examination because I agree it was hearsay, and I  
13 didn't want to bring that to the truth. The bottom  
14 line, even if he has hearsay, he can convey that to  
15 law enforcement to help further their --

16 THE COURT: He can, but I don't think he  
17 can provide it to the jury here. I don't think I  
18 have enough basis to sort of sort out any sort of  
19 whether it's hearsay or not. And I think it is  
20 hearsay. I mean, it's being offered for the truth.  
21 And so I think I'm going to sustain the objection.

22 MR. CASTELLANO: Just for the record, it's  
23 not offered for the truth; it's for the purpose of  
24 showing that the statement was made to him. I  
25 understand the Court's ruling.

1 MS. DUNCAN: Thank you.

2 (The following proceedings were held in  
3 open court.)

4 THE COURT: All right, Mr. Castellano.

5 MR. CASTELLANO: Thank you, Your Honor.

6 BY MR. CASTELLANO:

7 Q. Mr. Armenta, back in September of 2015,  
8 before the case was even indicted -- I don't need to  
9 know the statements or what they told you -- but did  
10 you tell law enforcement about criminal activity on  
11 behalf of Robert Martinez and Roy Martinez?

12 A. Yes, I did.

13 Q. And can you tell members of the jury  
14 whether those two individuals were later indicted as  
15 part of this overall investigation?

16 A. Yes, they were.

17 Q. Now, you were asked whether or not you  
18 were housed with cooperators back in January and  
19 even September 2015. In September of 2015, as far  
20 as you knew, were Robert Martinez or Roy Martinez  
21 cooperating with the Government?

22 A. No.

23 Q. As far as you know, did they later become  
24 cooperators for the Government?

25 A. Yes.

1 Q. So at the point that one or both of these  
2 people may have told you something incriminating,  
3 were they cooperating with the Government, either  
4 Roy Martinez or Robert Martinez?

5 A. Yes.

6 Q. They were or were not, in September 2015?

7 A. They were not cooperating?

8 Q. Correct.

9 A. I wasn't around them. I had no knowledge  
10 of them cooperating at that time.

11 Q. I'm going to ask you about another person,  
12 Benjamin Clark. His name has come up. Once again,  
13 without telling us what he said, did he tell you  
14 about other criminal activity in which he was  
15 involved?

16 A. Yes.

17 Q. And did he also mention another name to  
18 you by the name of Edward Troup?

19 A. Yes, he did.

20 Q. Can you tell the members of the group  
21 whether those two people were later charged?

22 A. Yes, they were charged.

23 Q. At the time Benjamin Clark told you about  
24 his criminal activity, was he a cooperator with the  
25 Government?

1 A. No, he was not.

2 Q. Same question. In February of 2015, when  
3 you had a discussion with Eric Duran about him  
4 telling you to do the right thing, did you know at  
5 that time whether he was cooperating with the  
6 Government?

7 A. No.

8 Q. Now, you were asked about whether or not  
9 you were housed with other cooperators in this case  
10 in the last two weeks. Were you aware whether those  
11 people were transported closer to Las Cruces for  
12 purposes of being close to the trial?

13 A. Yes, that's the reason.

14 MR. CASTELLANO: May I have a moment, Your  
15 Honor?

16 THE COURT: You may.

17 MR. CASTELLANO: Thank you, Your Honor. I  
18 pass the witness.

19 THE COURT: Thank you Mr. Castellano. If  
20 there are not any other questions, Mr. Armenta, you  
21 may step down.

22 Is there any reason Mr. Armenta cannot be  
23 excused from the proceedings, Mr. Castellano?

24 MR. CASTELLANO: No, Your Honor.

25 THE COURT: How about the defendant?

1 MS. DUNCAN: Your Honor, we'd ask that he  
2 be held on reserve.

3 THE COURT: All right. You'll be subject  
4 to re-call in this case. But you need to step out  
5 of the courtroom and remain outside of the  
6 courtroom, and not talk to anyone about your  
7 testimony here today.

8 THE WITNESS: Okay.

9 MR. LOWRY: Your Honor --

10 THE COURT: Or on Friday.

11 MR. LOWRY: If he's subject to recall, can  
12 we admonish the witness?

13 THE COURT: I thought I just did.  
14 Don't talk about your testimony.

15 THE WITNESS: Okay.

16 THE COURT: Thank you for your testimony,  
17 Mr. Armenta.

18 THE WITNESS: You're welcome.

19 THE COURT: All right. Does the  
20 Government have its next witness or evidence?

21 MR. CASTELLANO: Your Honor, the United  
22 States calls Officer Jorge Borjas.

23 THE COURT: Mr. Borjas, if you'll come up  
24 and stand next to the witness box on my right, your  
25 left, before you're seated, Ms. Standridge, my



1 courtroom deputy, will swear you in.

2 THE CLERK: Please be seated. State and  
3 spell your name for the record.

4 THE WITNESS: Jorge Borjas, J-O-R-G-E.  
5 B-O-R-J-A-S.

6 THE COURT: Mr. Borjas.

7 Mr. Castellano?

8 MR. CASTELLANO: Thank you, Your Honor.

9 JORGE BORJAS,  
10 after having been first duly sworn under oath,  
11 was questioned, and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. CASTELLANO:

14 Q. Good morning.

15 A. Good morning.

16 Q. Good afternoon. Sorry. Where do you  
17 work?

18 A. I work at Southern New Mexico Corrections  
19 Facility.

20 Q. What's your title or your occupation  
21 there?

22 A. I'm a corrections officer.

23 Q. How long have you been a corrections  
24 officer?

25 A. Now four years and a half.

1 Q. Can you tell the members of the jury a  
2 little bit about your training and your experience?

3 A. I got two months -- I've been in  
4 Corrections for now four years and a half -- going  
5 on five. I did two months in the Academy. I've  
6 been in the control center, rovers, so now I'm in  
7 the visitation office.

8 Q. Now, tell us about each those positions.  
9 What do each of those position do, or what are their  
10 responsibilities?

11 A. Visitation officer is overseeing the  
12 visitations in the Level 3, Level 4, Level 6s,  
13 inmates and visitors. A rover, you're roving,  
14 making sure everybody is alive, and making sure  
15 everything is secured, locks are in place, inmates  
16 been fed, fire watches, meaning inner -- all the  
17 doors are secured. Control officer, you're  
18 overseeing your rovers. They're making a log, and  
19 making sure -- controlling the movement on the unit.

20 Q. What's the purpose of keeping a log?

21 A. For records -- for records, knowing who  
22 comes in and out of the unit.

23 Q. What's the purpose of making sure that the  
24 locks are secured?

25 A. So locks don't go missing, making sure

1 doors are locked.

2 Q. Why is that important in a prison?

3 A. Security purposes.

4 Q. Were you on duty on March 7, 2014 around  
5 5:18 p.m.?

6 A. Yes.

7 Q. What were your responsibilities at that  
8 time?

9 A. At that time I was a control officer in  
10 1-A -- in the Unit 1-A.

11 Q. And does Unit 1-A have multiple pods in  
12 that unit?

13 A. Yes, it has 3 pods.

14 Q. What are those pods?

15 A. Which is green pod, would be C pod; blue  
16 pod would be B pod; A pod would be yellow pod.

17 Q. When you're standing -- do you know what's  
18 called either the control Center, or some people  
19 call it the bubble?

20 A. Okay.

21 Q. Where is that position in relation to the  
22 pods themselves?

23 A. We could say it's on the second level.

24 Q. And if you're standing up in the control  
25 room, where do you see the pods in terms of blue,

1 yellow, and green pods? What order would they be as  
2 you go from left to right?

3 A. It will be from --

4 Q. From left to right.

5 A. It will be green, blue, and yellow.

6 Q. Now, when you're in the control center,  
7 are you able to see all three pods at the same time?

8 A. No. It will be one at time, of course,  
9 depending what occurred, because I'll be looking at  
10 one pod at a time. But if you stand the opposite  
11 you'll be able to see three -- all three pods, but  
12 obstructed view.

13 Q. So is there a window that separates you  
14 from the pod down below?

15 A. Yes.

16 Q. And as you -- if you move across the  
17 control center, can you walk across to see into each  
18 of the pods?

19 A. Yes.

20 Q. Okay. After 5:00 in the evening, what do  
21 you remember about Officer Price and a nurse walking  
22 through the pods?

23 A. Can you repeat that question, please?

24 Q. A little after 5:00 p.m. on March 7, 2014,  
25 do you remember Officer Price and a nurse walking

1 through the pods?

2 A. Yes, they were.

3 Q. For what purpose?

4 A. They were passing out meds and he was  
5 conducting his rounds at the same time.

6 Q. Do you remember seeing them passing  
7 through the blue pod?

8 A. Yes.

9 Q. And do you remember when they left the  
10 blue pod?

11 A. Yes, I do.

12 Q. What happened after they left the blue  
13 pod?

14 A. They entered yellow pod. They sat down on  
15 the first table, and the nurse put her meds out, and  
16 the inmates came around her to pass their meds.

17 Q. At the point that they are in yellow pod,  
18 do you notice anything happening in the blue pod?  
19 Did something get your attention?

20 A. Something -- excuse me?

21 Q. Did something get your attention in the  
22 blue pod?

23 A. Javier Molina running outside the door.

24 Q. And how did that get your attention?

25 A. I was standing in between yellow pod and

1 blue pod, and I was looking down at my rovers, and  
2 at that time I had a door open to blue pod. So I  
3 look over, and that's when -- at that same time that  
4 I'm looking over, I saw Javier Molina running out.

5 Q. What did you notice about him?

6 A. What it appeared to have blood on his  
7 shirt.

8 Q. Do you remember opening Javier Molina's  
9 cell before you saw him running out of there?

10 A. Yes.

11 Q. What do you remember about opening his  
12 cell for him?

13 A. I reopened his cell. He told me he was  
14 going to get a soup.

15 Q. If you're up in the bubble, and he's down  
16 in the pod, how does he tell you that he wants soup?

17 A. He -- usually inmates give us the sign.  
18 Sopa, which is their bowl, they show us the bowl.  
19 You know, sopa. It's -- usually give us signs,  
20 because it's hard to hear.

21 Q. And is sopa Spanish for soup?

22 A. Yes.

23 Q. So did that make you believe that he  
24 wanted to go back into his cell to get soup?

25 A. Yes.

1 Q. Did you then open his cell door for him?

2 A. Yes, I gave him permission.

3 Q. Once you opened the cell door -- because  
4 you're looking at different pods at different times,  
5 did you notice anyone going in and out of his cell  
6 other than him?

7 A. No, I didn't. I was keeping an eye on my  
8 rovers.

9 Q. And why do you keep an eye on the rovers?

10 A. For security purposes. It's two rovers  
11 and a nurse in there. There are 16 inmates in  
12 yellow pod, so I was keeping an eye on them.

13 Q. At the point there that you have 16  
14 inmates in yellow pod, are those inmates all out of  
15 their cells at that time?

16 A. Yes, they were.

17 Q. Do you remember how many inmates were in  
18 blue pod on that today?

19 A. 11.

20 Q. Now, I know you have four and a half years  
21 of experience now, but in March of 2014, how much  
22 experience did you have?

23 A. I had two months of Academy and four  
24 months in being on the line.

25 Q. Okay. So since you had two months of

1 Academy time before then, in March of 2014, did you  
2 have four months at the Southern New Mexico  
3 Correctional Facility?

4 A. Yes, sir.

5 Q. Now, did the pods have cameras?

6 A. Yes, they do.

7 Q. And in March of 2014, were you able to see  
8 the cameras from the control center?

9 A. No, I'm not.

10 Q. So could you tell at that time whether the  
11 cameras were even working?

12 A. No.

13 Q. Where was it that people could see the  
14 cameras?

15 A. Any housing. Somebody had to log into the  
16 computer to be able to see if they're working or  
17 not.

18 Q. Now, from the four months there, did you  
19 have the opportunity to see people -- inmates trying  
20 to pass kites or letters between the pods?

21 A. They usually do through the inner doors  
22 that we have in each pod.

23 Q. May I have the visualizer, please.

24 I'm showing you Defendants' E17. Do you  
25 recognize what's in that image?



1 A. Yes.

2 Q. What is that?

3 A. That's an inner pod door.

4 Q. Is that the door that has the exit sign  
5 over the top?

6 A. Yes.

7 Q. What have you noticed about inmates and  
8 that door and the door down below?

9 A. They usually pass kites, notes. They  
10 usually stand there and talk to each other.

11 Q. And if you're in the control center, are  
12 you able to see on that side of the wall, and then  
13 take a few steps to the side and see on the other  
14 side of the wall?

15 A. Yes, I can.

16 Q. So you can see inmates on both sides from  
17 time to time?

18 A. Yes, sir.

19 Q. Now, in March of 2017 (sic), can you tell  
20 the members of the jury whether you recall anything  
21 like that? Did you see anybody on either side of  
22 the door?

23 A. No, I don't.

24 Q. Was that a common or uncommon occurrence  
25 to see people passing things between the doors?

1 A. It's pretty common.

2 Q. Okay. I want to take you back to the  
3 point where you saw Javier Molina coming out of his  
4 cell. and you said that he had what appeared to be  
5 blood on the front of his shirt?

6 A. Yes.

7 Q. What did you do when you saw that?

8 A. I went down. I stepped to yellow pod,  
9 banged on the window, and let my rovers know that  
10 something was going on inside of blue pod.

11 Q. What happened as a result --

12 A. Huh?

13 Q. What happened as a result of you banging  
14 on the window?

15 A. I grabbed the rovers' attention. Price  
16 came over, and he went to the blue pod door.

17 Q. When you say "Price," is that Corrections  
18 Officer Price?

19 A. Correction Officer.

20 Q. What did you see from there?

21 A. I grabbed my shotgun. Because of the  
22 angle, I wasn't able to fire. I did see -- because  
23 there is a mirror in the control center, so we can  
24 get those edges. I just saw people -- there was an  
25 altercation going on. I didn't know really what was

1 going on, just an altercation.

2 Q. Why did you grab your shotgun?

3 A. That's our less lethal -- to stop an  
4 inmate from fighting or anything. We have less  
5 lethal rounds in there.

6 Q. What does that mean, to have a less lethal  
7 round?

8 A. It won't cause any harm to the -- well, it  
9 won't cause any harm to the person. It's a bean bag  
10 that's in the shotgun shell.

11 Q. So it's a bean bag loaded into a shotgun  
12 shell?

13 A. Yes, sir.

14 Q. And what happens when you shoot an inmate  
15 with a bean bag, as opposed to a live round of  
16 ammunition?

17 A. It will stop the altercation. It will get  
18 their attention to stop.

19 Q. And you said something about the window.  
20 Were you able to point the shotgun inside the pod  
21 and shoot anybody with the bean bag?

22 A. No, I wasn't.

23 Q. I'm going to show you Defendants' Exhibit  
24 E11. In that photograph do you see the window you  
25 were talking about?

1 A. Yes, I do. It's just been updated.

2 Q. That's what I want to ask you about. I'm  
3 going to circle what appears to be a rectangular cut  
4 out of the window; is that a fair description?

5 A. Yes.

6 Q. Now, about how big was that hole in March  
7 of 2014?

8 A. You see the hole right underneath it. I  
9 don't know. Can I draw?

10 Q. You can draw it.

11 A. That would be that one, about that size,  
12 two to three inches.

13 Q. Now, at the point you were trying to  
14 shoot -- or trying to point the shotgun at inmates,  
15 where were they located in reference to that blue  
16 door in the picture?

17 A. Which would be in that area.

18 Q. So with a hole that size, were you able or  
19 unable to shoot basically directly below you towards  
20 the inmates and the attack?

21 A. No, I wasn't.

22 Q. What happened as a result of you not being  
23 able to fire your weapon into the pod?

24 A. I wasn't able to stop the altercation that  
25 was going on.

1 Q. And did the altercation eventually stop?

2 A. Yes, after Officer Price was down there  
3 giving directives -- was trying to give directives  
4 up there also to get down on the floor.

5 Q. Did Officer Price enter the pod before or  
6 after the altercation concluded?

7 A. No, I was waiting for the first responders  
8 to get there for safety.

9 Q. Was it fair to say that he was on the  
10 other side of the door until basically backup  
11 arrived?

12 A. Yes.

13 Q. At that point did you then open the door  
14 and allow first responders to enter the pod?

15 A. Yes, I did.

16 Q. And what eventually happened to Javier  
17 Molina?

18 A. Later that day I was advised that he  
19 passed away.

20 MR. CASTELLANO: May I have a moment, Your  
21 Honor.

22 THE COURT: You may.

23 MR. CASTELLANO: Thank you, Your Honor, I  
24 pass the witness.

25 THE COURT: Thank you, Mr. Castellano.

1 Mr. Villa, do you have cross-examination  
2 of Mr. Borjas?

3 MR. VILLA: Yes, Your Honor, thank you.

4 THE COURT: Mr. Villa?

5 CROSS-EXAMINATION

6 BY MR. VILLA:

7 Q. Good afternoon, Mr. Borjas.

8 A. Good afternoon, sir.

9 Q. You testified that right around 5:00 p.m,  
10 Corrections Officer Price and a nurse were in the  
11 blue pod passing out medication; correct?

12 A. Yes, sir.

13 Q. And, in fact, right before they left the  
14 blue pod, they were coming out of providing  
15 medication to Mr. Perez; is that right?

16 A. Yes.

17 Q. And to provide that medication, they went  
18 into Mr. Perez' cell, true?

19 A. I don't recall. I don't remember that.  
20 It's been a while.

21 Q. That's okay. You testified that in the  
22 yellow pod when CO Price and the nurse went in  
23 there, that the inmates came and got around the  
24 nurse; right?

25 A. Yes.

1 Q. So when there is an inmate that's  
2 physically capable of coming out of the their cell,  
3 they're allowed to walk up to the nurse and get  
4 their medication?

5 A. Yes.

6 Q. But if there is an inmate that's not  
7 physically capable, or is in their cell for some  
8 other reason, the nurse can go into the cell and  
9 give the medication?

10 A. Yes. The officer escorts her down to the  
11 cell. And they open the food port so they can give  
12 them medication.

13 Q. And do you recall -- you testified you'd  
14 been on the line as of March 7, 2014, for four  
15 months?

16 A. Yes.

17 Q. So you started on the line, I guess, what  
18 December or November, 2013?

19 A. Around December, yes.

20 Q. And were you in the Housing Unit 1-A that  
21 entire time?

22 A. Yes.

23 Q. Okay, so -- as a control officer?

24 A. No. In December I was a rover just for a  
25 few weeks, then I went down to control officer in

1 January.

2 Q. Were you a rover in Housing Unit 1-A?

3 A. No. I was the relief rover, meaning I  
4 guess wherever I'm needed, that's where they send  
5 me. That's what a relief is. And I was relief just  
6 for about two weeks, two weeks and a half. And on  
7 January -- the first days of the January, that's  
8 when I assumed my duties as 1-A Control Officer.

9 Q. Right around the turn of the year -- the  
10 turn of the new year, you began control officer,  
11 which is up in the tower overlooking all three pods?

12 A. Yes.

13 Q. And Mr. Perez was in the blue pod at least  
14 as of the time you became control officer in January  
15 of 2014; correct?

16 A. Yes.

17 Q. And you would agree with me that Mr. Perez  
18 rarely came out of his cell?

19 A. Yes.

20 Q. Was mostly in his cell because he was ill  
21 and need his walker to walk?

22 A. Yes. I would open his door sometimes,  
23 he'd tell me just to shut it, and I would shut it.

24 Q. You mean open it to let him out?

25 A. Yes.



1 Q. But he would say, "It's okay, just shut  
2 it"?

3 A. He'd give me the usual sign (gestures) so,  
4 close it, and I'll close it, yes.

5 Q. And he was doing that and he would stay in  
6 his cell?

7 A. Yes.

8 MR. VILLA: That's all the questions I  
9 have.

10 THE COURT: Thank you, Mr. Villa.  
11 All right. Anyone else?

12 MR. MAYNARD: No questions.

13 THE COURT: No questions, Mr. Maynard.  
14 Anybody else? Mr. Lowry?

15 MR. LOWRY: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. LOWRY:

18 Q. Good afternoon, Mr. Borjas.

19 A. Good afternoon, sir.

20 Q. You were talking about your assignment  
21 that day up in the bubble.

22 And could we get Government's Exhibit 162.  
23 And are you familiar with this diagram?

24 A. Yes.

25 Q. And this is -- would be the diagram of the

1 housing unit where you worked, HU 1-A?

2 A. Yes.

3 Q. And I believe you testified on direct  
4 that -- I want to make sure everybody understands  
5 this right. This would be the bubble where you were  
6 assigned, where you can observe all three units or  
7 pods, if you will?

8 A. Yes, sir.

9 Q. And again, this would be the blue pod  
10 here, I marked with a "B"?

11 A. Correct.

12 Q. And the middle one -- pardon me, the  
13 middle one is actually -- clear that. This would be  
14 the yellow pod, the middle, in the center?

15 A. Yes, that would be the yellow pod.

16 Q. And this would be the green pod here?

17 A. Correct.

18 Q. Now, can we pull up Defense E11. And this  
19 is the Plexiglas you see at the top on the bubble,  
20 this area here.

21 A. Say that again?

22 Q. This is the Plexiglas bubble that you  
23 referred to?

24 A. Correct.

25 Q. And you work on the interior of that?

1 A. Yes, sir.

2 Q. And that's the same for every pod in the  
3 housing unit; correct?

4 A. Correct.

5 Q. And so you have -- if you're standing up  
6 in the bubble, you can see the entire pod?

7 A. Correct.

8 Q. And if you stand far enough back in the  
9 bubble -- if we could go back to 162 -- you could  
10 have an overview of all three pods?

11 A. Yes. What -- I mean, I could stand up to  
12 the back and see all three pods. It's -- in the  
13 control center I could stand here, and around this  
14 area --

15 Q. And you can mark it.

16 A. -- and I can pretty much just move my head  
17 and see green, yellow, and blue.

18 Q. And in addition to eyesight, you also had  
19 a camera system set up in each pod?

20 A. Yes, sir, there is cameras in the pods.

21 Q. And in the bubble where you were  
22 stationed, you have a video display where you can  
23 look out of each camera?

24 A. No, I don't; that day I didn't.

25 Q. Why didn't you have that display that day?

1           A.    I don't know. I don't know. That display  
2 is provided by the State. I wouldn't know about it.

3           Q.    But that was part -- did you complain to  
4 the administration that that display was broken?

5           A.    No. No, it's -- that's just the way -- we  
6 don't have any monitor or anything to view cameras  
7 up there.

8           Q.    You don't have an individual screen where  
9 you can look through each of the cameras in each  
10 pod?

11          A.    No, I don't.

12          Q.    So you wouldn't have the means, then, to  
13 alert the administration if any camera was not  
14 working?

15          A.    No.

16          Q.    Okay.

17               MR. LOWRY: No further questions, Your  
18 Honor.

19               THE COURT: Thank you, Mr. Lowry.

20               Mr. Jewkes, Ms. Jacks, do you have  
21 cross-examination of Mr. Borjas?

22               MS. JACKS: I do, Your Honor.

23               THE COURT: Ms. Jacks?  
24  
25

1 CROSS-EXAMINATION

2 BY MS. JACKS:

3 Q. Good afternoon, Mr. Borjas.

4 A. Good afternoon, ma'am.

5 Q. Can we have E11 up, please.

6 So I just want to make sure I understand  
7 your testimony. So the day of March 7, 2014, when  
8 Mr. Molina -- when the attack on Mr. Molina  
9 happened, were you up in the pod that's depicted in  
10 this photograph, E11?

11 A. Yes, ma'am.

12 Q. And can you just use your finger and sort  
13 of circle the area where you were? You can mark on  
14 the screen.

15 A. Yes. Can you guys put the other picture  
16 up where it shows the three pods and the bubble?

17 Q. Was that 162, the diagram?

18 A. The other picture the other attorney was  
19 talking about? That one, it will be perfect.

20 Q. 162?

21 A. On that day I was standing right here.  
22 Right there, right in the middle between yellow pod  
23 and blue pod.

24 Q. And that was where you were standing at  
25 the time that you first became aware that something

1 was going on in blue pod?

2 A. Yes.

3 Q. But I think what you testified to was that  
4 you were really paying attention to what was going  
5 on in yellow pod, because that's where the nurse and  
6 the rovers were at the time?

7 A. Correct. I was looking inside yellow pod.

8 Q. All right. And can we go back to E11?

9 So what's depicted here in E11 shows a  
10 part of the bubble; right?

11 A. Correct.

12 Q. But just not the window of the bubble that  
13 you were looking out of?

14 A. Correct.

15 Q. Okay. And the windows -- when you're up  
16 in that bubble, you're surrounded by windows; right?

17 A. Correct.

18 Q. So what you had to do was take a step --  
19 would it be to your left? Turn to your left, and  
20 then you could look down into what was going on in  
21 blue pod?

22 A. Yes. Just pretty much do this, look into  
23 blue pod, then yellow pod. But that day I was  
24 looking into yellow pod, overseeing my rovers,  
25 making sure of their safety.

1 Q. Okay. So you made the turn, and you  
2 looked and saw there was something going on in blue  
3 pod, and then you turned back and started banging on  
4 the window in yellow pod to tell them there is  
5 something going on?

6 A. Yes.

7 Q. And then you turned your attention back to  
8 blue pod?

9 A. Correct.

10 Q. And that's basically like what you  
11 described, just moving around a little bit in that  
12 bubble; right?

13 A. Correct.

14 Q. You testified that you were the person  
15 that let the -- that let the first responders in to  
16 tend to Mr. Molina?

17 A. Correct.

18 Q. Okay. Did -- oh, shoot. Did Mr. Molina  
19 collapse at some point that you saw?

20 A. No.

21 Q. Okay.

22 A. I didn't see him collapse.

23 Q. Okay. Where was Mr. Molina when you saw  
24 him?

25 A. I didn't see him collapse, but I did see

1 him on the floor, and he was around this area right  
2 here.

3 Q. Okay. So he was on the floor inside blue  
4 pod?

5 A. Correct.

6 Q. And the door at the time that you saw him  
7 on the floor, was the blue pod -- pod door closed?

8 A. No. That was -- I saw him when I opened  
9 the door, my first responders went in there.

10 Q. Okay. But right when you saw him  
11 collapsed, was he collapsed, and the door was  
12 closed?

13 A. I never saw him collapse, ma'am.

14 Q. Okay. I hear that. We're  
15 misunderstanding each other. You just marked a  
16 place on the floor where Mr. Molina was.

17 A. Um-hum.

18 Q. Okay. At the time you first saw him  
19 there, was the pod door to blue pod closed?

20 A. Can you repeat the question, please?

21 Q. Right at the time you first saw Mr. Molina  
22 on the floor of blue pod, was the main entrance to  
23 the pod -- the blue pod door -- was that closed?

24 A. No. The first time that I saw Mr. Molina  
25 on the floor, that's when I opened the pod. That's



1 when -- because I had to open the door for the first  
2 responders. So when I let the first responders --  
3 that's when I -- when I opened the door, that's when  
4 I first saw Molina.

5 Q. So you first realized he had collapsed on  
6 the floor when you opened the door to let in the  
7 first responders?

8 A. Yes. That's when I saw him there on the  
9 floor.

10 Q. Okay. And did they tend to Mr. Molina  
11 there on the floor of blue pod?

12 A. The nurse, Julia, attended to him. The  
13 first responders went and locked down the pod.  
14 Meaning, by lockdown, putting all inmates inside  
15 each cell -- in their assigned cells so we can  
16 secure the area.

17 Q. Did you have that -- was that done in each  
18 pod of Housing Unit 1-A?

19 A. Correct.

20 Q. So in blue pod, yellow pod, and green pod?

21 A. Yes, ma'am.

22 Q. Okay. And I think -- have you watched the  
23 video of this incident?

24 A. Yes.

25 Q. And do you recall on the video, can you

1 see the other inmates in blue pod going to their  
2 cells to be locked down?

3 A. It's been a while since I watched it so --

4 Q. Okay. All right. But the people that  
5 came and addressed the injuries to Mr. Molina did so  
6 in this area that you've marked here, just inside  
7 the blue pod entrance door?

8 A. Yes, ma'am.

9 Q. And then did you see Mr. Molina removed  
10 from this -- from that position?

11 A. Yes. He was carried out in the gurney, I  
12 believe.

13 Q. So at some point somebody came in -- some  
14 ambulance or some paramedics came in with a gurney?

15 A. No. The paramedics -- the first  
16 responders brought the gurney. They escorted him to  
17 the infirmary.

18 Q. So they brought the gurney into blue pod;  
19 is that right?

20 A. Yes.

21 Q. And then put Molina on it in blue pod?

22 A. Um-hum.

23 Q. Is that yes?

24 A. Yes.

25 Q. And then took him out of the blue pod on

1 that gurney --

2 A. Yes.

3 Q. -- directly out of Unit 1-A --

4 A. Yes.

5 Q. -- to the infirmary at the prison?

6 A. Correct.

7 Q. Now, are you familiar with the setup  
8 inside Unit 1-A, yellow pod, what it looks like?

9 A. Yes.

10 MS. JACKS: And, Your Honor, I have 14  
11 photographs labeled G1 through 14. May I approach  
12 the witness?

13 THE COURT: You may.

14 BY MS. JACKS:

15 Q. Mr. Borjas, I'm just going to ask you to  
16 take a look through those photographs and see if  
17 each one is a fair and accurate representation of  
18 what it looks like in yellow pod. And just take  
19 your time because there is a few of them.

20 A. Yes, it is.

21 MS. JACKS: Your Honor, I'd move at this  
22 time for the admission of G1 through 14.

23 THE COURT: Any objection?

24 MR. CASTELLANO: No objection.

25 THE COURT: Any other defendant have any

1 objection?

2 MR. VILLA: No, Your Honor.

3 THE COURT: Not hearing any objection,  
4 Defendants' Exhibits G1 through 14 will be admitted  
5 into evidence.

6 (Defendants' Exhibits G1 through G14  
7 admitted.)

8 THE COURT: Ms. Jacks?

9 BY MS. JACKS:

10 Q. Can we have G6, please.

11 Do you recognize that photograph,  
12 Mr. Borjas, G6?

13 A. Correct.

14 Q. And does that photograph show the window  
15 that you were looking out of around the time -- let  
16 me just go back. You were looking out of a window  
17 into yellow pod at the time you became aware of the  
18 Molina assault; right?

19 A. I wasn't looking out of that window.

20 Q. Okay. Were you looking out of the window  
21 that's on the opposite wall?

22 A. Right.

23 Q. Okay. We'll see if we have a photograph  
24 of that.

25 A. I believe the last one.

1 Q. There we go, you're correct. G14?

2 A. Yes.

3 Q. All right. On that Exhibit G14, can you  
4 show us -- just mark with us, basically, where you  
5 were looking at the time you became aware of the  
6 Molina assault?

7 A. Out of that window.

8 Q. And that's the first window after the wall  
9 that divides blue pod from yellow pod; right?

10 A. Correct.

11 Q. And just on the other side of that wall,  
12 that would be, I guess, to your left as you looked  
13 out the window, would that -- just on the other side  
14 of that wall be blue pod?

15 A. Correct.

16 Q. And is there a window in the control booth  
17 that looks out onto blue pod?

18 A. Yes.

19 Q. On the other side of that wall?

20 A. Correct.

21 Q. And I want to ask you to look at Exhibit  
22 G9.

23 Now, do you recognize G9 as being a  
24 photograph taken inside yellow pod?

25 A. Correct.

1 Q. And with respect to the two solid orange  
2 doors -- I'm just going to circle them right here --  
3 one lower and one upper. Can you tell us what those  
4 doors are?

5 A. Those are the inner pod doors.

6 Q. The inner pod doors?

7 A. Correct.

8 Q. So those are the doors that -- on the  
9 other side of those doors is blue pod?

10 A. Correct.

11 Q. And these are the doors -- I think you  
12 said where you've seen people before standing on  
13 either side talking to each other?

14 A. Yes.

15 Q. And these are doors where you've seen  
16 things pass between?

17 A. Correct.

18 Q. Thank you. I don't need that photograph  
19 anymore.

20 Mr. Borjas, you were working on March 7 of  
21 2014 -- you were working the swing shift; is that  
22 right?

23 A. Correct.

24 Q. And from what time to what time is that?

25 A. That is from 2:00 in the afternoon to

1 10:00 at night.

2 Q. 2:00 p.m. to 10:00 p.m.?

3 A. Correct.

4 Q. And you were the actual control officer?

5 A. Yes, ma'am.

6 Q. So you stayed in what we're calling the  
7 bubble throughout your shift?

8 A. Correct, eight hours.

9 Q. And it was the other two correctional  
10 officers that were on duty with you that were  
11 assigned the rover positions?

12 A. Correct.

13 Q. So that they would be the ones that would  
14 actually move through the housing unit to do various  
15 things throughout the shift?

16 A. Yes.

17 Q. To escort people like the nurse?

18 A. Correct.

19 Q. To move inmates if that was necessary?

20 A. Yes.

21 Q. To pass out meals?

22 A. Yes.

23 Q. Okay. And I think you testified when Mr.  
24 Castellano asked you some questions that one of the  
25 duties that you have as the control officer is to

1 maintain a log of what happens in the unit during  
2 the course of the shift?

3 A. Yes, ma'am.

4 Q. And one of the primary purposes of a log  
5 is to record movement between -- or movement within  
6 the unit?

7 A. Yes, ma'am.

8 Q. So if somebody leaves, you would log that  
9 in; right?

10 A. Um-hum.

11 Q. Is that yes?

12 A. Yes.

13 Q. And if somebody comes into one of the  
14 housing units you also log that in?

15 A. Yes.

16 Q. And then there are regular security  
17 checks?

18 A. Correct.

19 Q. And counts?

20 A. Yes.

21 Q. And those are things that also are logged  
22 in?

23 A. Correct.

24 Q. So if we look -- can we have Exhibit -- I  
25 think it's S6.



1 I'm just going to show you a page of  
2 what's been previously admitted as S6, and this  
3 looks to be -- well, do you recognize this?

4 A. Yes. That's my log.

5 Q. Okay, can you just tell -- how do you know  
6 it's yours?

7 A. "CO Borjas assumes all duties in 1-A  
8 control. All times are approximate."

9 Q. And it has your name on the top, Officer  
10 Borjas?

11 A. Yes, ma'am.

12 Q. And that's the swing shift log that you  
13 wrote for March 7 of 2014?

14 A. Yes.

15 Q. And is that in your own handwriting?

16 A. Correct.

17 Q. And do you make those entries in that log  
18 as things happen?

19 A. Yes, ma'am.

20 Q. I mean -- so you don't wait until the end  
21 of the shift to put those --

22 A. No.

23 Q. -- entries into the log?

24 A. No. As soon as they're done with a round,  
25 I put it down.

1 Q. You log it in and put who moved or who did  
2 what?

3 A. Yes.

4 Q. Okay. Now, do you remember whether you  
5 worked the swing shift on the day before, so that  
6 would have been March 6 of 2014?

7 A. Yes.

8 Q. And did you?

9 A. Yes, I did.

10 Q. And were you also the control unit officer  
11 on that day?

12 A. Yes, that was my assigned post.

13 MS. JACKS: Your Honor, we have an exhibit  
14 that's previously been marked as S2. May I approach  
15 the witness and have him look at it?

16 THE COURT: You may.

17 BY MS. JACKS:

18 Q. And, Mr. Borjas, I'm just going to ask you  
19 to take a look at that and tell us if you recognize  
20 that document, and if you do, what it is?

21 A. This is my shift log.

22 Q. And from what date is it?

23 A. 3/6/14.

24 Q. And is it the swing shift for that date?

25 A. Yes, ma'am.

1 Q. So that would be from 2:00 in the  
2 afternoon till 10:00 in the evening?

3 A. Yes.

4 Q. And do you recognize your handwriting on  
5 that --

6 A. Yes, ma'am.

7 Q. -- exhibit?

8 A. Yes, I do.

9 Q. And the entries in that log, those are  
10 entries that you are required to make as part of  
11 your job as the control officer at Southern New  
12 Mexico Correctional Facility in Unit 1-A?

13 A. Yes.

14 MS. JACKS: Your Honor, I move for the  
15 admission of S2.

16 THE COURT: Any objection, Mr. Castellano?

17 MR. CASTELLANO: No, Your Honor.

18 THE COURT: Any defendant have any  
19 objection?

20 MR. VILLA: No, Your Honor.

21 THE COURT: Not hearing any, Defendants'  
22 Exhibit S2 will be admitted.

23 (Defendants' Exhibit S2 admitted.)

24 MS. JACKS: Can we publish that exhibit to  
25 the jury? That's all right. If I can have the

1 Elmo, I can just use this copy. All right.

2 BY MS. JACKS:

3 Q. So Mr. Borjas, did you assume duties as  
4 the control unit officer at about 2:00 p.m. on March  
5 16, 2014?

6 A. Yes.

7 Q. And your writing -- on this log it looks  
8 like 1400?

9 A. Correct.

10 Q. Is that military time?

11 A. Military time, yes.

12 Q. And are you required to use military time?

13 A. No, I'm just used to the military time.

14 Q. Okay. At some point on March 6 of 2014,  
15 were new inmates introduced into Unit 1-A?

16 Oh, you know -- do you want to see the log  
17 to determine that?

18 A. Sure.

19 Q. I'll let you flip through it.

20 Did you have a chance to look at it?

21 A. Yes.

22 Q. Can you see whether at some point you  
23 logged in the fact that new inmates were introduced  
24 into Unit 1-A?

25 A. No.

1 Q. Let me direct your attention to page 3.  
2 But I can't read that. I'm going to have to come  
3 closer.

4 A. I see, right.

5 Q. Unfortunately, I can't read that. My  
6 glasses aren't strong enough. Where is the -- let  
7 me just go back for a second.

8 Do you have any independent recollection  
9 of whether or when new inmates were introduced into  
10 Unit 1-A that day?

11 A. No, it's been a while, ma'am. I don't  
12 remember.

13 Q. Okay, right. And so isn't that part of  
14 the purpose of this housing log, to help you  
15 remember when events of significance may have  
16 happened?

17 A. Correct.

18 Q. And so in order to refresh your memory  
19 about whether people were introduced into Unit 1-A  
20 that day, would you look back at this log to try to  
21 make that determination?

22 A. I could say that.

23 Q. You could say that?

24 A. Yeah.

25 Q. So looking -- okay, so is there an entry

1 for when new inmates were introduced into Unit 1-A  
2 on that day?

3 A. Yes. The one at 1947. "CO Aguirre, CO  
4 Flores enter A pod to place new inmates in cells."

5 Q. We're getting that enlarged here for my  
6 benefit.

7 There. Do we have the entry sort of  
8 highlighted for you: "CO Aguirre, CO Flores enter A  
9 pod to place new inmates in cells."

10 A. Correct.

11 Q. Is that right?

12 A. Yes.

13 Q. And A pod, which color pod is that?

14 A. A pod would be yellow pod.

15 Q. And 1947, what time of day is that in  
16 non-military time?

17 A. 7:47.

18 Q. So 7:47 p.m.?

19 A. Yes.

20 Q. Just prior to 8:00 p.m.?

21 A. Yes.

22 Q. And the placing the new inmates in their  
23 cells, how long did that take? Is there an entry  
24 that reflects when they were done?

25 A. Yes. "CO Aguirre and CO Flores complete

1 placement. Exit A pod."

2 Q. So that's at 1958?

3 A. Yes.

4 Q. So two minutes before 8:00 p.m.?

5 A. Yes.

6 Q. So it took them 11 minutes to put the  
7 inmates in the cells?

8 A. Correct.

9 Q. Now, just as a matter of course, if  
10 somebody -- if the rovers are entering a pod and  
11 placing new inmates in their cells, they are  
12 transferred from some other institution. Would the  
13 pod be locked down prior to their entry?

14 A. Correct.

15 Q. So there would be every -- every inmate in  
16 yellow pod would be placed in their actual cell and  
17 the door would be locked?

18 A. Yes, ma'am.

19 Q. And is there an entry -- I see you looking  
20 at that log, so I'm thinking there is an entry on  
21 there that shows that.

22 A. Yes. It would be the prior page, page 2.

23 Q. And maybe you should highlight the bottom  
24 part of that.

25 A. Yes -- the bottom --

1 Q. Okay. And will you tell us what entries  
2 show that?

3 A. Excuse me?

4 Q. Will you tell us what entries establish  
5 that?

6 A. Yes, it would be the 1943.

7 Q. Okay. 1943. Can you read what the entry  
8 says?

9 A. "CO Flores, CO Laguretta enter A pod to  
10 lock down."

11 Q. "Enter A pod." So that would be yellow  
12 pod?

13 A. Yes.

14 Q. Okay. And that happens at 7:43 p.m.?

15 A. Correct.

16 Q. What is the entry just below that?

17 A. "CO Flores, CO Laguretta exit A pod.  
18 Lockdown complete."

19 Q. All right. So then if we can go to the  
20 next page, page 2. Then the next thing that happens  
21 is the new inmates are brought in?

22 A. Yes.

23 Q. Now, if we can enlarge that portion -- the  
24 top portion, please.

25 So they place the new inmates in their



1 cells and come back out. I think we already talked  
2 about, that takes about 11 minutes?

3 A. Yes.

4 Q. Then I see the next entry at 2005 or 8:05  
5 p.m. What does that entry say and what does it  
6 mean?

7 A. The "Out of the compliance due to  
8 movements conducted"?

9 Q. Correct.

10 A. Means that we, as rovers, we are -- our  
11 duty is to conduct a round every hour, and we were  
12 out of compliance because the rovers weren't there.

13 Q. Because they were busy putting new inmates  
14 in their cells?

15 A. Yes.

16 Q. So they weren't able to walk through blue  
17 pod or green pod?

18 A. Correct.

19 Q. They were busy in yellow pod?

20 A. Yes.

21 Q. So at some point -- well, I guess what I  
22 want to understand is after the new inmates are  
23 placed in their cells in yellow pod, was yellow pod  
24 ever again opened up for people to move around  
25 freely that night?

1 A. I don't remember that night.

2 Q. Okay. Was there something in this log  
3 that would let us know that or tell us?

4 A. No.

5 Q. At some point that night, were -- was blue  
6 pod put in lockdown for the night?

7 A. Yes, for count at 2030 when they call  
8 count.

9 Q. Okay. So at 2030, which would be 8:30  
10 p.m.?

11 A. Correct.

12 Q. And is that formal count -- that's the  
13 nighttime formal count?

14 A. Yes.

15 Q. And so at that point every inmate in the  
16 housing unit in every pod is locked down for the  
17 night?

18 A. Yes, ma'am.

19 Q. Now, in your experience as a correctional  
20 officer, when rovers are escorting new inmates from  
21 another institution to be housed in a new pod -- so  
22 in a new pod --

23 A. Um-hum.

24 Q. -- would they bring the inmates or the  
25 inmate into the housing unit and place them directly

1 in their cell?

2 A. Yes, ma'am.

3 Q. Would they allow the inmate to stop and  
4 chitchat with other people as they're making the  
5 entrance into the unit?

6 A. No.

7 Q. Is that something that's against New  
8 Mexico Department of Corrections policy?

9 A. Stopping an inmate from talking?

10 Q. Yeah.

11 A. No. Our job is complete when we take that  
12 inmate inside the cell. We lock him in there, and  
13 he's secure.

14 Q. So when the rover brings in a new inmate,  
15 he -- you open the door to the housing -- the pod,  
16 right?

17 A. Um-hum.

18 Q. Is that a yes?

19 A. Yes.

20 Q. And then the rovers escort the inmate into  
21 the pod and directly into his cell?

22 A. Correct.

23 Q. And then once the inmate is placed into  
24 the cell, do you then close the door to that cell?

25 A. Yes, ma'am.

1 Q. And the inmate starts a period of what's  
2 called orientation --

3 A. Correct.

4 Q. -- where that inmate is locked down for  
5 some period of time and not allowed to roam out on  
6 the tier with the other inmates in the housing pod?

7 A. Yes, ma'am.

8 MS. JACKS: If I can just have a moment.

9 THE COURT: You may.

10 MS. JACKS: I have nothing further. Thank  
11 you.

12 THE COURT: Thank you, Ms. Jacks.

13 Mr. Castellano, do you have redirect of  
14 Mr. Borjas?

15 MR. CASTELLANO: Yes, Your Honor.

16 THE COURT: Mr. Castellano.

17 MR. CASTELLANO: Could I have Exhibit 162,  
18 please.

19 REDIRECT EXAMINATION

20 BY MR. CASTELLANO:

21 Q. Officer Borjas, just to orient us once  
22 again, we've got -- on this diagram, which is 162,  
23 blue pod would be farthest south on the diagram?

24 A. Yes.

25 Q. The yellow would be farthest west on the

1 diagram?

2 A. Yes.

3 Q. And green would be farthest north on the  
4 diagram; is that correct?

5 A. Yes.

6 Q. So where did the first responders come  
7 from, generally speaking?

8 A. It would be the front door, which would be  
9 right here.

10 Q. And then Mr. Molina was where on this  
11 diagram?

12 A. Right there.

13 Q. And where was everybody standing when they  
14 came in to administer aid to him and lock down the  
15 facility?

16 A. Where was everybody standing?

17 Q. Yeah, where did everybody go? Did you  
18 lock down all three pods?

19 A. Yes. We started with blue pod because  
20 that's where the altercation was at, and then they  
21 moved on to the other pods.

22 Q. At that point, then, do you have  
23 corrections officers entering the pod here to lock  
24 it down? And then how would they get to yellow pod,  
25 then?

1           A.     They will come out through the same door  
2 they came in and go into yellow, which is right  
3 here, and then lock down yellow pod.

4           Q.     And then back around -- I'm showing a  
5 diagram or a path, possibly, back into green pod to  
6 lock down that pod, as well?

7           A.     Correct.

8           Q.     And given the fact this is a more serious  
9 incident, how much commotion is going on with all  
10 the movements in the lockdown?

11          A.     A lot.

12          Q.     So is it fair to say that this is a pretty  
13 busy time administering aid to Mr. Molina, and then  
14 locking everybody down?

15          A.     Yes.

16                 MR. CASTELLANO:   If we can have  
17 Defendants' Exhibits 1 through 14, starting with  
18 Number 1, I'd appreciate it.

19                 THE COURT:   Does that have a letter in  
20 front of it?

21                 MR. CASTELLANO:   It's G1.   And I want to  
22 scroll through each of these photographs.

23 BY MR. CASTELLANO:

24          Q.     Okay.   Is this similar -- is this a  
25 similar layout as blue pod when you walk in?   The

1 wall's on the left and the stairway is on the left;  
2 is it a similar layout as to blue pod?

3 A. Yes.

4 Q. Let's turn to G2, please. And just to be  
5 clear, I think in each of these exhibits they were  
6 taken at a time more recently. So if you see  
7 anything different from March of 2014, would you  
8 point that out to us?

9 A. Yes.

10 Q. Anything in Government's G2 -- excuse me,  
11 G2, not Government's.

12 A. No.

13 Q. G3, please?

14 A. No.

15 Q. And G4?

16 A. No.

17 Q. Now, on G4 there is a blanket on there.  
18 Do you know why inmates put that blanket on that  
19 table?

20 A. They usually put that blanket just to play  
21 cards on it, smoother.

22 Q. Smoother with -- when you play cards?

23 A. Yes.

24 Q. Have you ever seen them play dominoes?

25 A. Yes.

1 Q. Do they usually put that blanket on there  
2 for dominoes, as well? Has that been your  
3 experience?

4 A. Yes.

5 Q. Turning next to G5, please.

6 A. No.

7 Q. And G6?

8 A. Yes.

9 Q. Now, what do you see that's different in  
10 G6 than was different on March of 2014?

11 A. The port.

12 Q. So once again, is that port larger than it  
13 was in 2014?

14 A. Yes, much larger.

15 Q. And I think previously you circled  
16 something about the size of the camera that's in the  
17 picture.

18 A. Yes.

19 Q. Is it your testimony that the port was  
20 closer in size to that camera than it is in this  
21 picture?

22 A. Yes.

23 Q. Let's turn to G7, please. Anything  
24 different there?

25 A. Just the PREA --



1 Q. Say it again?

2 A. Just the PREA on the wall.

3 Q. And by PREA, are you referring to the  
4 letters, P-R-E-A, spelled on the wall?

5 A. Yes.

6 Q. What is that?

7 A. The Prison Elimination -- the Prison Rape  
8 Elimination Act.

9 Q. What's the purpose of that?

10 A. For any sexual misconduct going on or  
11 amongst inmates, that's the number they call for a  
12 hotline or if they need to speak to somebody.

13 Q. So, in other words, if an inmate is  
14 assaulted, they have a number that they can call for  
15 help or counseling or whatever else it is?

16 A. Yes.

17 Q. And is that new from 2014?

18 A. Yes.

19 Q. Next exhibit, please, which would be G8.

20 Other than what's also on the wall, the  
21 PREA, anything different there?

22 A. No.

23 Q. G9?

24 A. No.

25 Q. Now, on G9, once again, have you seen --

1 I'm circling the door where you referred to as the  
2 inner pod doors, which would be the middle doors on  
3 that screen. Have you seen inmates pass things both  
4 on the top tier and the bottom tier?

5 A. Yes.

6 Q. And what happens when you try to intervene  
7 or get a corrections officer in there to try to  
8 intercept whatever is passed?

9 A. By the time we get there, it's usually  
10 gone.

11 Q. Let's take a look next at G10. And G11.  
12 What are we looking at in G11?

13 A. This will be the C pod, green pod.

14 Q. Okay. So this is now green pod?

15 A. Yes.

16 Q. Not yellow pod?

17 A. No.

18 MS. JACKS: Mr. Castellano, can I show you  
19 the printout of that, because for some reason the  
20 projector is making it look different.

21 BY MR. CASTELLANO:

22 Q. I'm going to have you look at the hard  
23 copy to make sure we have the right pod. It will  
24 be Government's G11. I'm sorry, not -- Defendants'  
25 G11.

1 MR. CASTELLANO: So there is no confusion,  
2 may I approach the witness, Your Honor?

3 THE COURT: You may.

4 BY MR. CASTELLANO:

5 Q. So there is no confusion, let me have you  
6 look at each of these.

7 If you can just confirm when all of those  
8 exhibits that you have, which would be G1 through  
9 14, whether those are yellow pod?

10 A. This is yellow pod.

11 Q. Okay. Can we go back to G10, please.

12 Just so it's clear, on the screens that we  
13 have, it looks like this is kind of a greenish  
14 color. But after looking at those hard copies, is  
15 G10 from yellow pod?

16 A. Yes.

17 Q. Thank you. Let's look at G11.

18 Okay. What are we looking at in G11?

19 A. The shower in yellow pod.

20 Q. Can you circle the shower, please?

21 A. (Witness complies.)

22 Q. And is there one shower on each level?

23 A. Yes.

24 Q. Let's turn next to G12, and I'll continue  
25 to circle on the screen. Is that the inner pod

1 door?

2 A. Yes.

3 Q. And G13?

4 A. That is in yellow pod.

5 Q. Once again, I'm circling the port there.

6 Is anything else different there, other than the gun  
7 port, than what you saw in 2014?

8 A. No.

9 Q. Let's look at G14 next, please.

10 Okay. Now, in G14, I'm going to show you  
11 the -- basically the entry/exit door with an arrow.  
12 Is that the correct door?

13 A. Yes.

14 Q. What happens when you turn right and you  
15 go through that door -- go through the door and turn  
16 to the right?

17 A. You'll see blue pod.

18 Q. And just so it's clear, I'm also circling  
19 the -- what's called the bubble or the control  
20 center. Do you have the means of looking below you  
21 from the control center?

22 A. Which would be the mirror that's on top  
23 right here, it will sometimes get those blind  
24 sights.

25 Q. So sometimes you may have a blind spot,

1 and from the mirror, you can look up into the mirror  
2 and look straight down; would that be accurate to  
3 say?

4 A. Yes.

5 Q. Now, let me ask you once you're inside of  
6 the control center, can you look through the floor  
7 directly below you, not in the pod?

8 A. No.

9 Q. Is it a -- is it a solid floor in there?

10 A. Yes.

11 Q. So if there is a solid floor in there, can  
12 you see what's happening to the inmates moving in  
13 the hallway between the pods?

14 A. Can you repeat that question?

15 Q. Yes. If you're inside the control center,  
16 can you see directly below you, to movement below  
17 you, in between the pods?

18 A. Yes. We have four openings on the control  
19 center, and they're usually made by a mesh -- steel  
20 mesh.

21 Q. So you can see through the mesh?

22 A. Yes.

23 Q. Let's take a look at --

24 MR. CASTELLANO: I think that's it.

25 MS. JACKS: And, your Honor, for the

1 record, the photographs depict a yellow/orange-ish  
2 color as to the computer, but the monitor really  
3 does make these pictures look green.

4 THE COURT: Well, if you want to go back  
5 in and get some more information on color from Mr.  
6 Borjas, I'll give you a chance.

7 MR. CASTELLANO: Your Honor, I think I  
8 asked him to look at each of those, and we agree  
9 that G1 through 14, despite the color on the screen,  
10 those are of yellow pod.

11 BY MR. CASTELLANO:

12 Q. Can we take a look that the Defendants'  
13 Exhibit S6, please.

14 Okay. Just so it's clear, this is the  
15 daily log from March 7 of 2014?

16 A. Yes.

17 Q. Now, it looks like here what you're  
18 tracking is official movements within the pod; is  
19 that fair to say?

20 A. Yes.

21 Q. So, in other words, you mentioned before  
22 that you had seen inmates passing notes back and  
23 forth and things of that nature. Do you log things  
24 like that on this log?

25 A. No.

1 Q. So if there was movement or talk in the  
2 pod, would you have captured that on this log?

3 MS. JACKS: Objection. Vague as to what's  
4 meant by "movement" or "talk."

5 THE COURT: Well, if he can answer,  
6 overruled.

7 A. Can you repeat that question?

8 BY MR. CASTELLANO:

9 Q. So if -- for example, if you see inmates  
10 standing at the doors, at the inner pod doors, and  
11 something is passed from one pod to the next, is  
12 that captured on this log?

13 A. No.

14 Q. Are you capturing the movement of the  
15 inmates in the pod just when they're on their own  
16 time?

17 A. Yes, by doing our rounds.

18 Q. What I'm saying is -- let's say no one is  
19 doing rounds, and the inmates are out of their  
20 cells. Do you capture --

21 A. Oh, no.

22 Q. -- what's going on there?

23 A. No.

24 Q. Do you capture if they're speaking between  
25 the door, or if they're fishing kites to each other,

1 things of that nature?

2 A. No. We usually follow them by ourselves,  
3 make sure where the kite is going, trying to get it  
4 ourselves. But it's gone by then.

5 Q. And so is any of that type of activity  
6 captured on this log, or are these formal movements  
7 and formal lockdown type of procedures that the  
8 prison does?

9 A. Yes.

10 Q. Now, in here it looks like you started at  
11 1400 hours; is that correct?

12 A. Yes.

13 Q. Or 2:00 p.m.?

14 A. Yes.

15 Q. Do you know what happened before 2:00 p.m.  
16 on March 7, 2014?

17 A. No.

18 Q. Is this an example of what's captured  
19 here -- I'm going to circle 1647 hours. What type  
20 of activity do you capture at that time? What's  
21 happening at 1647 hours?

22 A. CO Price was passing their food.  
23 Completed passing the chow, which is their food  
24 trays.

25 Q. What's happening at 1816 and 1824 hours?



1 I'm now indicating on the bottom of the screen.

2 A. CO Price was -- that was after the  
3 incident. CO Price was starting to escort inmates  
4 out of their cells.

5 Q. And when an incident like this happens, do  
6 you then start a new log, or do you just use the  
7 regular daily log when there is like a homicide at  
8 the institution?

9 A. We continue the log to tell you their  
10 shift is done, we usually keep it on the same log.

11 Q. And here you've got 1830 hours, or 6:30  
12 p.m., "Master Control calls emergency/count"; is  
13 that correct?

14 A. Yes.

15 Q. Now, you were asked if -- whether inmates  
16 are supposed to chitchat with other people when  
17 they're moving around. Are you able to keep track  
18 of all that stuff? Who is talking to who and when,  
19 that type of stuff?

20 A. We try our best, but it's hard.

21 Q. If we can look next at Exhibit S2, please.

22 Okay. Let's start on this page here. You  
23 have -- looks like -- I'm going to say A, B, and C  
24 pods?

25 A. Correct.

1 Q. What are you counting for on these times  
2 here?

3 A. They're the same times that are inside the  
4 logs that you see on the times -- if you can put the  
5 S6, I believe.

6 Q. What's the purpose of having an "in" and  
7 an "out"?

8 A. So you can know when you go inside a pod  
9 and coming out.

10 Q. Just so it's clear, is this exhibit now  
11 for March 6 of 2014?

12 A. Yes.

13 Q. Can we look at the next page of that  
14 exhibit, please. And one more page, please.

15 I'm going to draw your attention to 2005  
16 hours, or 8:05 pm. Would you please explain that  
17 again, when you say "Out of compliance"?

18 A. Yes.

19 Q. What happens there when you're out of  
20 compliance?

21 A. The last round -- the round wasn't  
22 conducted at the time that it was needed to.

23 Q. And following that, at 2017 hours, what's  
24 the need for a security check?

25 A. Because a round wasn't conducted before,

1 so we conducted the round after. But it was  
2 conducted.

3 Q. So do you know what happens once inmates  
4 are in their cells? Do you keep track of what is  
5 going on in that time period until the security  
6 check took place?

7 A. To the best of my ability then, yes.

8 Q. And because -- you're looking at three  
9 pods at one time; is that correct?

10 A. Correct.

11 Q. And so all you know without independent  
12 recollection, is what you put on the chart?

13 A. Yes.

14 Q. And what's the difference between a  
15 security check at 2017 hours and a formal count at  
16 2030?

17 A. A security check would be just a regular  
18 round, checking doors, making sure the inmates are  
19 alive. A formal count, you're actually counting  
20 each inmate, making sure they're in their assigned  
21 cell, and that they're in there.

22 Q. Then here at 2039 hours, is that another  
23 formal count?

24 A. Yes. There was only one rover and myself  
25 in that unit at that time, and the rover does the

1 first formal count, comes up to the control center,  
2 relieves me, and I go down and do a formal count.

3 Q. So at this point, then, is it fair to say  
4 that you are not in the bubble because you're the  
5 one doing the formal count?

6 A. Correct.

7 THE COURT: Mr. Castellano, would this be  
8 a good time for us to take our lunch break?

9 MR. CASTELLANO: Sure, Your Honor.

10 THE COURT: Ms. Standridge may need to go  
11 through and may have our next witness on the other  
12 side of the door. Give her a second to see if we're  
13 all right before everybody plows through the door.

14 All right. All rise.

15 (The jury left the courtroom.)

16 THE COURT: All right. We'll be in recess  
17 for about an hour.

18 (The Court stood in recess.)

19 MS. FOX-YOUNG:

20 MS. JACKS: Your Honor, if there is time,  
21 we have some exhibits to move in that the Government  
22 doesn't object to. If not, we can do it at the next  
23 break.

24 THE COURT: All right. I think we've got  
25 all the defendants and counsel, at least some of the

1 counsel here. Ms. Jacks, what did you have?

2 MS. JACKS: This is in regards to the next  
3 witness, Your Honor, who I expect is Jerry Montoya.  
4 And in reviewing the statements that have been  
5 provided in Jencks, there is -- there is an  
6 additional -- or there is a statement from January  
7 22, 2018.

8 THE COURT: Is this in one of the letters?

9 MS. JACKS: I don't think it is. I don't  
10 think it's in any of the letters. And I don't think  
11 I brought this to the Court's attention before.

12 THE COURT: Was it on my chart?

13 MS. JACKS: No. And it is a statement  
14 that Mr. Sanchez would object to, not only because  
15 of the Fifth and Sixth Amendment, and the fact that  
16 it's inadmissible hearsay, but it's also a statement  
17 that I think is of the nature that the Court has  
18 been redacting, because it's an admission of Rudy  
19 Perez that incriminates Mr. Sanchez. And here's the  
20 sum and substance of the statement.

21 THE COURT: What are you looking at to get  
22 this information?

23 MS. JACKS: I'm looking at an FBI 302,  
24 dated January 22, 2018. So it says a pretrial  
25 interview with Mr. Montoya. And what Mr. Montoya

1 said during the course of this interview was that  
2 after the Molina homicide, while he was housed at  
3 Torrance County/Estancia Jail, that "Rudy Perez  
4 admitted to Montoya that he provided the shanks for  
5 the Molina murder. And that Perez told Montoya that  
6 Sanchez and Mario Rodriguez needed metal. Perez  
7 told Montoya that he volunteered his walker and  
8 understood it was Perez' contribution to putting in  
9 work."

10 I'm not sure if the Government is  
11 intending to get into this statement, but in light  
12 of our other objections, if they are, and if the  
13 Court is inclined to allow it, then we would be  
14 asking any reference to Mr. Sanchez be omitted from  
15 this testimony.

16 THE COURT: If you got a chance, if you  
17 could give me that 302, because I don't always have  
18 the 302s. Give me a copy of the 302 so I can take a  
19 look at it.

20 MS. JACKS: I'll give it you to. I have  
21 handwriting all over it, I'll just warn you.

22 THE COURT: Okay. If you'll just  
23 highlight the statement there so I know what  
24 statements you want me to look at.

25 Are you going to try to elicit this

1 statement, Mr. Beck? Mr. Castellano?

2 MR. BECK: I was trying to find the 302.

3 THE COURT: Do you want to show it to him,  
4 Ms. Jacks?

5 MS. JACKS: Sure. It's Bates page 51483.  
6 And I've highlighted in yellow for the Court. May I  
7 approach:

8 THE COURT: You may.

9 What's your thoughts? Are you going to  
10 try to elicit it?

11 MR. BECK: I'm going to elicit Mr. Perez'  
12 statements to Mr. Montoya, that he provided the  
13 shanks for the walker. I'm not going to elicit the  
14 inculpatory statement about Mr. Sanchez.

15 THE COURT: Okay. Does that, then, work  
16 for you?

17 MS. JACKS: Well, it would, but I think  
18 there is four defendants in this action, and I  
19 certainly would anticipate some sort of  
20 cross-examination from Rudy Perez' defense team.  
21 And I could see how certain questions might have the  
22 unfortunate effect of bringing out that statement  
23 towards Mr. Sanchez.

24 THE COURT: Okay. Well, let me give it  
25 some thought now that I have it in front of me.

1           So, Ms. Fox-Young, you and Mr. Villa, if  
2 y'all decide to elicit this, why don't you approach  
3 before you do, so I can give it some thought?

4           MS. FOX-YOUNG: Well, Your Honor, we also  
5 object to the Government eliciting the statement,  
6 just based upon the fact that it was produced  
7 extremely late. And the representation is that Mr.  
8 Montoya told the Government on January 22 -- the  
9 Government produced it -- I don't have the email,  
10 but just right before trial -- and, you know, this  
11 is knowledge that was allegedly obtained when these  
12 individuals were housed together at Torrance County  
13 months and months prior.

14           I mean, again, I think this is the  
15 Government holding onto statements until the eve of  
16 trial. And like some of the others that the Court  
17 has looked at, except even more so in this case  
18 because of the late production, this is a statement  
19 that should have been produced, it's an admission.  
20 And we think the Court ought to exclude it on that  
21 basis.

22           THE COURT: Well, it's been out for now  
23 two full weeks. And it was made only a week before  
24 trial. I'm not inclined to exclude it on that  
25 basis. But it does sound like you're in agreement



1 that, otherwise, it will just be cut off. You're  
2 not going to try to elicit what Mr. Perez told Mr.  
3 Montoya that -- what Mr. Sanchez and Mr. Rodriguez  
4 said; right?

5 MS. FOX-YOUNG: Your Honor, I do think  
6 that, as we've already argued to the Court, we are  
7 entitled to put on a full defense for Mr. Perez'  
8 constitutional right. And if we need to  
9 cross-examine as to the details of that statement  
10 and who else was involved, the Court can't cut us  
11 back just because it's a joint-defendant trial.

12 I can't anticipate exactly where the  
13 Government's direct examination is going to go, but  
14 I don't think the Court can cut our cross back just  
15 because Mr. Sanchez' counsel doesn't want to hear  
16 that response.

17 THE COURT: All right. Well, approach  
18 before you get into it, and that will give me some  
19 time to think about it. Doesn't sound like the  
20 Government is going to elicit it. So it would be  
21 you eliciting it.

22 MS. JACKS: And I object to that  
23 characterization of what Mr. Sanchez' counsel wants.  
24 Mr. Sanchez' counsel is asserting his constitutional  
25 and evidentiary rights, as is her job.

1 THE COURT: Okay. Before we bring the  
2 jury in, I'll get to your exhibits, Ms. Fox-Young.  
3 I won't forget them.

4 But I do want to put on the record, and  
5 this will be marked as Exhibit L, the -- Mr.  
6 Mickendrow sent Ms. Wild today at 1:29 a memo that  
7 lists out the -- their records of when he received  
8 his breakfast trays, when he refused his breakfast  
9 trays, when he refused his supper trays, when he  
10 received his supper trays, and in some cases how  
11 much was eaten. So I'll mark this as Exhibit L to  
12 the clerk's minutes.

13 But at a break or something you might give  
14 that to -- you might take a look at it, Mr. Villa or  
15 Ms. Fox-Young.

16 All right.

17 MS. BHALLA: Quickly, Your Honor, two  
18 seconds. I just ask the Court to admonish the  
19 people observing the trial not to speak to the  
20 jurors. I didn't observe anything inappropriate,  
21 but I think it's just better for everybody if we  
22 limit communications in that regard, Your Honor.

23 THE COURT: So nobody should have contact  
24 with the jurors. And I'll give that instruction  
25 once again that nobody should speak to the jurors

1 about anything, so the audience shouldn't be talking  
2 to the jurors, either.

3 All rise.

4 (The jury entered the courtroom.)

5 THE COURT: All right. Everyone be  
6 seated. Let me start off the afternoon with  
7 indicating that I'm going to remind you of a few  
8 things that are especially important.

9 Until the trial is completed, you're not  
10 to discuss the case with anyone, whether it's  
11 members of your family, people involved in the  
12 trial, or anyone else. And that includes your  
13 fellow jurors. So just don't talk anybody in any  
14 way about the case. If anyone approaches you and  
15 tries to discuss the trial with you, please let me  
16 know about it immediately.

17 Also, you must not read or listen to any  
18 news reports of the trial. Again, don't get on the  
19 internet and do any research for purposes of this  
20 case.

21 And finally, remember that you must not  
22 talk about anything with any person involved in the  
23 trial, even if it doesn't have anything to do with  
24 the trial. If you need to speak with me, simply  
25 give a note to the court security officer, Ms.

1 Standridge.

2 I've cut these back, but as we begin a new  
3 week, I want to remind you to keep them in mind each  
4 time we take a break during the day and also in the  
5 evening.

6 All right. Mr. Borjas, I'll remind you  
7 that you're still under oath. Mr. Castellano, if  
8 you wish to continue your redirect you may do so at  
9 this point.

10 MR. CASTELLANO: Thank you, Your Honor.

11 BY MR. CASTELLANO:

12 Q. Officer Borjas, what time would the  
13 porters normally work in the pods?

14 A. From 9:00 p.m. to 10:00 p.m.

15 MR. CASTELLANO: Thank you, your Honor, I  
16 pass the witness.

17 THE COURT: All right. Thank you, Mr.  
18 Castellano. Did you have something, Mr. Villa?

19 MR. VILLA: I don't want to go out of  
20 turn.

21 THE COURT: Do you have something, Ms.  
22 Jacks?

23 MS. JACKS: I do. Can I go last?

24 THE COURT: It's up to y'all.

25 Go ahead, Mr. Villa.

1 MR. VILLA: Just brief, Your Honor. Thank  
2 you, Your Honor.

3 THE COURT: Mr. Villa?

4 RECROSS-EXAMINATION

5 BY MR. VILLA:

6 Q. Good afternoon, Officer Borjas.

7 A. Good afternoon.

8 Q. Can we look again at Defendants' S6?  
9 These are the logs you were looking at before lunch.

10 A. Okay.

11 Q. And these are the logs, Mr. Borjas, from  
12 March 7, 2014; correct?

13 A. Yes.

14 Q. It indicates that this log -- particular  
15 log starts at 1400 hours, which I guess that's 2:00  
16 p.m.?

17 A. Yes.

18 Q. Is that when you started the shift?

19 A. Correct.

20 Q. That's the swing shift, 2:00 to what,  
21 10:00?

22 A. 10:00 at night.

23 Q. Okay. Do you all log if one inmate in one  
24 pod goes into another inmate in that same pod's  
25 cell?

1 A. No.

2 Q. You don't log that?

3 A. No.

4 Q. That's something that you would observe  
5 though, correct?

6 A. Yes.

7 Q. And in order to go into the other inmate's  
8 cell, they'd have to open the door?

9 A. Correct.

10 Q. Can you tell me whether on March 7, 2014,  
11 you saw Mario Rodriguez go into Rudy Perez' cell?

12 A. No.

13 Q. Do you recall that Mr. Perez' cell was  
14 room -- or cell 115?

15 A. Yes.

16 Q. And that's on the lower level?

17 A. Lower level, yes.

18 Q. And you're able to see that cell from the  
19 control center; correct?

20 A. Correct.

21 Q. And, I think, as you stated that the doors  
22 are normally shut; right?

23 A. Yes.

24 Q. So if Mr. Perez is in his room, and  
25 another inmate wants to go in his room, you'd let

1 him in?

2 A. No.

3 Q. You wouldn't do that?

4 A. No.

5 Q. Tell me why not.

6 A. It's not an officer telling me to open  
7 that door.

8 Q. So, for instance, if Mario Rodriguez walks  
9 up to Rudy Perez' door and says, you know, "Open the  
10 door," you're saying you wouldn't open the door?

11 A. No.

12 Q. Because it's not an officer.

13 A. It's not an officer. And, you know, it's  
14 another inmate telling me to open the door, not the  
15 one that lives in the cell.

16 Q. So if another inmate asks to you open the  
17 door, you won't do it?

18 A. No.

19 Q. If an inmate is inside of their cell, is  
20 there any way for them to tell you they want the  
21 door open?

22 A. Yes. They usually flash the light.

23 Q. Flash the light in the cell?

24 A. Flash the lights.

25 Q. So if they do that, you'll open the door?

1 A. Yes.

2 Q. But you won't do it at the request of  
3 another inmate?

4 A. No.

5 MR. VILLA: That's all the questions I  
6 have.

7 THE COURT: Thank you, Mr. Villa.

8 Anybody else before Ms. Jacks? Mr. Lowry,  
9 Mr. Maynard, Ms. Bhalla?

10 All right. Ms. Jacks?

11 MS. JACKS: I just have a brief follow-up.

12 THE COURT: All right. Ms. Jacks?

13 MS. JACKS: Can we have the first page of  
14 S6 -- would it be the first page S2. Okay, that's  
15 what I need.

16 RECROSS-EXAMINATION

17 BY MS. JACKS:

18 Q. Mr. Borjas, I have the first page of  
19 Exhibit S2 up, and that's the swing shift log that  
20 you created from the day before the Molina homicide,  
21 March 6, 2014.

22 A. Okay.

23 Q. And looking at -- I want to look at the  
24 bottom third of the page. Mr. Castellano referred  
25 you to this section of the page about the "in" and



1 "out" of pods -- from pods C, B, and A.

2 A. Um-hum.

3 Q. Do you recall those questions?

4 A. Yes.

5 Q. I just have a few follow-ups about that.

6 According to the regulations, is there supposed to  
7 be a security check of every housing unit pod like  
8 every so often?

9 A. Yes.

10 Q. And what are those regulations? How  
11 often?

12 A. Level 4, Level 3 will be every hour.

13 Q. Okay.

14 A. Level 6, which is a restrictive unit, that  
15 would be every 30 minutes.

16 Q. And on March 6 and 7 of 2014, the housing  
17 Unit 1-A was a Level 4; right?

18 A. Correct.

19 Q. So what you're logging in here is the  
20 hourly checks that are required by prison  
21 regulation; is that right?

22 A. Correct.

23 Q. And those are the hourly checks of  
24 correctional officers going in and out of the  
25 various pods?

1 A. Yes, ma'am.

2 Q. And do you simply copy those times over  
3 from the times in your running log?

4 A. Yes. You keep -- that's what you do.  
5 They're the same times on the daily log and that  
6 front page.

7 Q. All right. And they're just summarized  
8 here on the front page, because that's how the  
9 prison document you're supposed to fill out is  
10 structured?

11 A. Correct.

12 MS. JACKS: Thank you. I have nothing  
13 further.

14 THE COURT: Thank you, Ms. Jacks.

15 Mr. Castellano, do you have anything  
16 further of Mr. Borjas?

17 MR. CASTELLANO: No, Your Honor.

18 THE COURT: Mr. Borjas, you may step down.

19 Is there any reason Mr. Borjas cannot be  
20 excused from the proceedings?

21 MR. CASTELLANO: No, sir.

22 THE COURT: Any defendant have any  
23 objection?

24 MR. LOWRY: No, Your Honor.

25 MS. JACKS: Your Honor, let's keep him on

1 call. He doesn't have to stay here, but just in  
2 case.

3 THE COURT: All right. You are excused  
4 for the day. You're subject to re-call. You may  
5 leave the courthouse, but you can't remain in the  
6 courtroom while the testimony is being taken. Thank  
7 you, Mr. Borjas.

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1 THE COURT: All right. Mr. Beck, does the  
2 Government have its next witness or evidence?

3 MR. BECK: Yes, Your Honor. The United  
4 States calls Jerry Montoya.

5 THE COURT: Mr. Montoya, if you'll come up  
6 and stand next to the witness box right in front of  
7 you. Before you're seated, Ms. Standridge, my  
8 courtroom deputy, will swear you in. So raise your  
9 right hand to the best of your ability there.

10 JERRY MONTOYA,  
11 after having been first duly sworn under oath,  
12 was questioned, and testified as follows:

13 THE CLERK: Please be seated. State and  
14 spell your name for the record.

15 THE WITNESS: Yes, ma'am. Jerry Montoya.  
16 J-E-R-R-Y, M-O-N-T-O-Y-A.

17 THE COURT: Mr. Montoya, Mr. Beck.

18 DIRECT EXAMINATION

19 BY MR. BECK:

20 Q. Mr. Montoya, are you now or have you ever  
21 been a member of the Sindicato de Nuevo Mexico?

22 A. I'm an ex-member, yes.

23 Q. When were you brought into the SNM?

24 A. Roughly 2000.

25 Q. Where was that?

1 A. Albuquerque, New Mexico, BCDC, which is  
2 the county jail.

3 Q. Is that the Bernalillo County Detention  
4 Center?

5 A. Yes, sir.

6 Q. And who brought you in to the SNM?

7 A. Roy Martinez.

8 Q. Anyone else?

9 A. Yes, I had some people vouch for me. One  
10 of my cousins; his name is Raymond Lujan. Another  
11 primo of mine is Sammy Chavez. And some friends  
12 from my neighborhood, Armando Gandala; he vouched,  
13 as well. And Banjo Gallegos vouched for me to be a  
14 member.

15 Q. Now Mr. Montoya, it's a little hard to  
16 hear you, so maybe either move a little closer to  
17 the mic or just speak up a little bit when you  
18 speak, please.

19 A. All right.

20 Q. Did you put in work to join the SNM?

21 A. Excuse me?

22 Q. Did you put in work to join the SNM?

23 A. Yes, sir.

24 Q. What did you do?

25 A. I assaulted two people in the county jail

1 to show that -- you know, my willingness to put in  
2 work for the SNM.

3 Q. And why did you assault those two people?

4 A. Just to show loyalty to the gang.

5 Q. Did someone instruct you to assault those  
6 people?

7 A. Yes.

8 Q. Who was that?

9 A. The first time I had did it, it came from  
10 Gerald Archuleta and Roy Martinez.

11 Q. And the second time?

12 A. I did it on my own.

13 Q. And why did these people get assaulted?

14 A. They were rival gangs.

15 Q. What gangs?

16 A. Los Carnales, one of them, and the other  
17 was a Sureno gang.

18 Q. Before you joined the SNM, were you a  
19 member of any street gang?

20 A. Yes, I was. I was a member of San Jose  
21 Street Gang.

22 Q. A member of what?

23 A. The San Jose Street Gang.

24 Q. And where is that?

25 A. It's in Albuquerque, New Mexico.

1 Q. And when you came to prison, why did you  
2 decide -- or how did you know to join the SNM?

3 A. My cousins were already in the SNM Gang,  
4 and they're from my neighborhood street gang, so  
5 that's why I gravitated towards the SNM prison gang.

6 Q. In 2000, when you joined the SNM, why were  
7 you in prison?

8 A. I had committed a murder.

9 Q. And what did you do?

10 A. Shot somebody.

11 Q. And did that give you any special -- why  
12 did the SNM recruit you after having a murder?

13 A. I guess they seen the willingness that I  
14 was able to kill someone. So I guess they seen  
15 potential in me to do so, so they recruited me.

16 Q. I'm going to show you a couple photos.  
17 I'm going to show you what's already been admitted  
18 as Exhibit 596. Who is that?

19 A. That's me.

20 Q. I'm going to show you Exhibit 598. What's  
21 depicted in that photograph?

22 A. My street gang. It says San Jo.

23 Q. And Exhibit 600. What is that a picture  
24 of?

25 A. That's another tattoo on my forearm. It

1 says "east," and the other side would say "side."

2 It would say East Side.

3 Q. I'm going to show you Exhibit 601.

4 A. It says "side" on there.

5 Q. You have East Side on your arms?

6 A. I have East Side on my forearms, yes, sir.

7 Q. And why?

8 A. That's the side that I grew up on from my  
9 street gang, East Side San Jo.

10 Q. So are there two -- I guess I'm going to  
11 call them chapters of San Jose?

12 A. It's not chapters. It's more of two  
13 sides. There is a south side, and then there is an  
14 east side. And I grew up on the east side of San  
15 Jose. So that's why I got the tattoo, to identify  
16 that, I guess.

17 Q. So do your tattoos identify which gangs  
18 you're a member of?

19 A. Absolutely, yes.

20 THE COURT: Mr. Beck, when you said 598  
21 you didn't have a letter to it. You just said 598?

22 MR. BECK: That's right, Your Honor.

23 BY MR. BECK:

24 Q. I'm going to show you what's been admitted  
25 as Government's Exhibit 604. What is that a



1 photograph of?

2 A. That's a photograph of my SNM tattoo.

3 Q. And what does that tattoo show or  
4 memorialize?

5 A. It just identifies me to others that I'm  
6 an SNM, at that time an SNM Gang member.

7 Q. When you joined the SNM in 2001, who were  
8 the leaders?

9 A. I remember them to be Angel Munoz, Gerald  
10 Archuleta, at that time.

11 Q. Does Gerald Archuleta have another name  
12 that he goes by?

13 A. Yes, he does.

14 Q. What's that?

15 A. They call him Styx.

16 Q. Does the SNM have certain rules?

17 A. Yes.

18 Q. What are the rules of the SNM?

19 A. For one, no snitching, no ratting. You  
20 have to be willing to put in work, put in violence  
21 for the group.

22 Q. Are there other rules about when you're  
23 recruited? Do you have to do something with your  
24 paperwork?

25 A. Produce it, produce your J&S, your plea

1 bargain to whoever is there with you, to let them  
2 know that -- why you're there in prison; that you're  
3 there for a valid reason, not like a sex offense  
4 crime; just how much time you've got, stuff like  
5 that.

6 Q. And did your paperwork, when you became a  
7 member or were recruited in 2000, 2001, show your  
8 murder conviction?

9 A. Yes, it did.

10 Q. At some point after you joined, did you  
11 see a list of rules actually on paper?

12 A. Yes, I did.

13 Q. And where did you see this?

14 A. About 2010, I seen these documents in  
15 Southern New Mexico Correctional Facility.

16 Q. Is that here in Las Cruces?

17 A. Yes, sir.

18 Q. And who showed you that list?

19 A. Another friend of mine that's an SNM Gang  
20 member. He goes by the name of Silly. His name is  
21 Chris Trujillo.

22 Q. Was that list called a code of conduct?

23 A. Yes.

24 Q. I want to talk to you about some of your  
25 SNM-related crimes. At some point did you assault

1 someone named Nestor Caraveo?

2 A. Yes, I did.

3 Q. What happened?

4 A. I seen him in the jails in a place called  
5 R&D. I know he was from a rival gang, so I  
6 assaulted him.

7 Q. Did anyone from SNM tell you to assault  
8 Nestor Caraveo?

9 A. No, but it's a rule if you cross paths  
10 with the rival gang, you know. If you don't do  
11 nothing, they'll get back. So you have to assault  
12 that person.

13 Q. And in 2006, did you engage in criminal  
14 activity related to the SNM?

15 A. Pertaining to?

16 Q. Conspiracy to bring in drugs into a  
17 facility?

18 A. Oh, yes, sir, I did.

19 Q. What happened there?

20 A. I had got together with another SNM Gang  
21 member, and we conspired to bring in drugs into the  
22 facility. That's it.

23 Q. Who is that gang member?

24 A. Arturo Garcia.

25 Q. And how were you planning on bringing

1 drugs into the facility?

2 A. He and I talked about it, and he asked me  
3 if I could get the drugs from his girlfriend. I got  
4 them and bring them in through the mail system.  
5 Like that.

6 Q. And have you personally ever brought in  
7 drugs into a prison facility?

8 A. Yes.

9 Q. Did you do that for the SNM?

10 A. For -- yes.

11 Q. And how is that? Why is it for the SNM?

12 A. Well, I shared my drugs that I had got  
13 with the SNM.

14 Q. How did you bring in those drugs?

15 A. I smuggled them in.

16 Q. How did you do that?

17 A. Through my girlfriend.

18 Q. And is there some rule in the SNM about  
19 what you do with your drugs when you bring them into  
20 a facility with other SNM members?

21 A. Well, if you get drugs, you know, you  
22 share them with whoever is there with you, you know.  
23 You just give them some. Sell some, but it's always  
24 to give them a little bit of drugs.

25 Q. And outside of bringing in drugs in 2006,

1 Mr. Caraveo, and assaulting the other LC member --  
2 the other gang members early on, have you done any  
3 crimes before the Molina murder for SNM?

4 A. Not that I can remember, sir.

5 Q. Why is that?

6 A. Never came up. Never came up.

7 Q. Have you done Suboxone in prison?

8 A. I have.

9 Q. Do you sell Suboxone in prison or have you  
10 in the past?

11 A. Yes, I have.

12 Q. And before the Molina murder at Southern  
13 New Mexico Correctional Facility, did you sell  
14 drugs?

15 A. Yes.

16 Q. And tell us about that.

17 A. You mean when I was in prison?

18 Q. When you thought you were getting out, and  
19 you sold drugs, why did you do that, and what were  
20 you doing?

21 A. I was on my way out, to get out of prison,  
22 and I was just going to get the drugs and sell them;  
23 that way, I had money to get out to.

24 Q. How much money did you have when you  
25 thought you were going to get out?

1 A. Close to \$5,000.

2 Q. What were you going to do with that money?

3 A. Just going to buy me a vehicle, buy me  
4 clothes, and like that.

5 Q. And where did you get those drugs that you  
6 were selling to raise the \$5,000?

7 A. Other SNM Gang members would help me out  
8 with the drugs. I would get them and I would sell  
9 them, or I would purchase something from them, and  
10 just turn it over and sell it for more.

11 Q. When you've done Suboxone, what effect did  
12 it have on you?

13 A. The effect it had on me is just like  
14 drinking beer. That's it. Just like drinking a few  
15 beers, getting a buzz, and enjoying it for the rest  
16 of the day. It lasts all day, so, you know...

17 Q. So in your opinion, it had the effect on  
18 you of something like getting drunk? Is that what  
19 you're saying?

20 A. Yes.

21 Q. Did you still have some sort of control  
22 over what you were doing?

23 A. Yeah, I had control over what I was doing.

24 Q. Did you do any drugs the day of the Molina  
25 murder?

1 A. No, I did not.

2 Q. How about the day before?

3 A. No, I did not.

4 Q. Now, I want to talk to you about what  
5 you've done in this federal case. Before this,  
6 before you were arrested in this federal case in  
7 December 2015, were you charged with the Molina  
8 murder in the state?

9 A. I was, yes.

10 Q. And what happened with those charges?

11 A. Eventually, they were dropped and the  
12 federal had picked it up.

13 Q. And in this federal case, did you plead  
14 guilty?

15 A. I did plead guilty to the murder.

16 Q. I'm going to show you what's been  
17 previously marked for identification purposes as  
18 Exhibits 680 and 681.

19 MR. BECK: Your Honor, I move to admit 680  
20 and 681.

21 THE COURT: Any objection from the  
22 defendant? Not hearing any objection, Government's  
23 680 and 681 will be admitted into evidence.

24 (Government Exhibits 680 and 681  
25 admitted.)

1 MR. BECK: May I publish to the jury 680,  
2 Your Honor?

3 THE COURT: You may.

4 BY MR. BECK:

5 Q. Mr. Montoya, what is this document?

6 A. That's my plea agreement.

7 Q. I'm going to direct you to page 2,  
8 paragraph 3. What were you charged with in this  
9 case?

10 A. Where?

11 Q. Were you charged with violent crimes in  
12 aid of racketeering, conspiracy to murder, and  
13 violent crimes in aid of racketeering, murder?

14 A. Yes, that's what it reads.

15 Q. Were you also charged with aiding and  
16 abetting in those crimes?

17 A. Yes, sir.

18 Q. Now, I'm going to direct your attention  
19 now to paragraph 5 on that same page.

20 A. Yes, sir.

21 Q. What sentence are you facing right now  
22 with your guilty plea?

23 A. Facing life.

24 Q. And I'm going to show you Government's  
25 Exhibit 681. Are you familiar with this exhibit?



1 A. Yes, sir.

2 Q. Is this the addendum to your plea  
3 agreement?

4 A. It is.

5 Q. I'm going to direct your attention to  
6 paragraph 2 there. What do you understand this  
7 paragraph to mean for you to comply with the  
8 addendum to your plea agreement?

9 A. For me to cooperate and tell the truth.

10 Q. And is that what you're doing here today?

11 A. Yes, sir.

12 Q. I'm going to direct your attention to  
13 paragraph 6 on the next page of this document. What  
14 does this paragraph mean to you?

15 A. That I could possibly have a downward  
16 departure.

17 Q. And for that to happen, does the  
18 Government have to file a motion on your behalf?

19 A. Yes, they do.

20 Q. Then who makes the ultimate determination  
21 whether you can be sentenced below life in prison?

22 A. Myself.

23 Q. Who else makes that final decision in the  
24 last sentence there?

25 A. Oh, I'm sorry, yes, the Court. Well, I

1 thought I'd say myself, because I'm here to tell the  
2 truth; right? And if I screw that up, that's not  
3 going to happen.

4 Q. I got you. Now did you begin cooperating  
5 with the Government in January of 2017?

6 A. Yes, sir, I did.

7 Q. What benefits have been provided to you as  
8 an FBI informant?

9 A. I have gotten no benefits, really; just  
10 gotten some money from the Government.

11 Q. And do you know how much money you've  
12 gotten from the Government today?

13 A. Roughly, yes, estimation is about \$800.

14 Q. Would it surprise you if you found out  
15 you've been paid \$1,124.31?

16 A. It would surprise me that I got paid that  
17 much.

18 Q. But could that be right?

19 A. It could be right.

20 Q. Were you provided contact visits with your  
21 family members?

22 A. I have received one contact visit, yes,  
23 sir.

24 Q. Were you closed as an FBI informant?

25 A. Excuse me?

1 Q. Were you closed as an FBI informant?

2 A. Oh, yes, I was.

3 Q. When was that?

4 A. It just happened recently. Just happened  
5 recently. This year, maybe.

6 Q. Have you done drugs since you've been  
7 cooperating as a Government witness?

8 A. I have done drugs before, yes.

9 Q. Tell the members of the jury what drugs  
10 you did while you were detained in the Sandoval  
11 detention center in Bernalillo?

12 A. When I was in Sandoval, I did Suboxone, I  
13 smoked some weed.

14 Q. Who did you get Suboxone from?

15 A. Another inmate that was there.

16 Q. Was it another Government cooperator?

17 A. Yes, it was.

18 Q. Who was it?

19 A. Roy Martinez.

20 Q. Anyone else?

21 A. Yes.

22 Q. Who else?

23 A. Benjamin Clark.

24 Q. Anyone else?

25 A. Those are the ones I can remember.

1 Q. Did you also do drugs while you were a  
2 cooperator when you were detained in Lea County  
3 Detention Center?

4 A. I did.

5 Q. What drugs did you do there?

6 A. I had done Suboxone there, as well.

7 Q. And while you were cooperating, how often  
8 would you do Suboxone?

9 A. Whenever it was available.

10 Q. Were you allowed to do Suboxone?

11 A. Absolutely not.

12 Q. Did you tell the Government you were doing  
13 Suboxone at that time?

14 A. I didn't notify them, no.

15 Q. When did you notify the Government?

16 A. I notified them when the jig was up. I  
17 notified them a couple weeks ago, three weeks ago,  
18 two weeks ago.

19 Q. We'll come back to that.

20 A. Yes, sir.

21 Q. Did you do any other drugs while you were  
22 in Lea County Detention Center?

23 A. Might have done some resin of some  
24 cocaine.

25 Q. What do you mean, you "might have done

1 some resin of cocaine"?

2 A. I'm sorry. Some people I -- used a spoon  
3 to shoot up some cocaine. And I used that same  
4 spoon that they used to do cocaine, to mix the  
5 Suboxones with. And I mixed it, and I did it.

6 Q. How do you mix Suboxone?

7 A. You just add water, use water.

8 Q. Does the Suboxone dissolve in the water in  
9 the spoon?

10 A. Yes, sir.

11 Q. And how did you ingest it from the spoon?

12 A. I snorted it.

13 Q. Did you do any other drugs while you were  
14 in Lea County Detention Center?

15 A. No.

16 Q. Did you snort Wellbutrin?

17 A. Oh, yes. I snorted some pills, yes,  
18 sorry.

19 Q. Where did you get the Suboxone while you  
20 were in Lea County Detention Center?

21 A. I had my girlfriend bring them in for me.

22 Q. How many Suboxone did you have your  
23 girlfriend bring in?

24 A. 24.

25 Q. What did you do with those?

1 A. I split them with another individual.

2 Q. Who was that?

3 A. Richard Gallegos.

4 Q. Is he also a Government cooperator in this  
5 case?

6 A. He is also a Government cooperator, yes.

7 Q. And what did you do with your -- I guess,  
8 how many strips did you have left over when you  
9 split with him?

10 A. Half, 12.

11 Q. Why did you split them with Mr. Gallegos?

12 A. We went halfers on this.

13 Q. What does that mean?

14 A. He got the drugs, I brought them in, and  
15 we went half. We just split them right in half.

16 Q. Were you allowed to bring in Suboxone at  
17 Lea County Detention Center?

18 A. Absolutely not.

19 Q. Did you alert the Government that you were  
20 doing that?

21 A. I didn't let them know, no, sir.

22 Q. What else did you bring into Lea County  
23 Detention Center?

24 A. A cellphone.

25 Q. Who brought the cellphone in?

1 A. My girlfriend.

2 Q. How long did you have the cellphone?

3 A. I would say a month.

4 Q. What did you do with the cellphone?

5 A. Made calls and watched -- used the  
6 internet.

7 Q. What else did you do with it?

8 A. I took pictures and exchanged pictures as  
9 well.

10 Q. Anything else?

11 A. That's all. That's all I can remember.

12 Q. Did you send text messages?

13 A. I sent a few text messages, yes, sir.

14 Q. How many pictures did you send or receive  
15 on the cellphone?

16 A. I maybe sent between 30 or 40 pictures  
17 myself, and I received maybe about the same amount  
18 of pictures.

19 Q. And were those pictures in clothing? Were  
20 they naked?

21 A. Some pictures were in clothing, other  
22 pictures were naked, receiving and outgoing.

23 Q. And who were you sending to or receiving  
24 these pictures from?

25 A. My girlfriend.

1 Q. I think you said you called -- you used  
2 the phone to make calls. Who did you call?

3 A. I called my girlfriend.

4 Q. How often did you call her?

5 A. Every day.

6 Q. How many times did you call her each day?

7 A. I don't know a total amount of calls that  
8 I called her, but it was probably a lot.

9 Q. Are you allowed to have a cellphone in the  
10 Lea County Detention Center?

11 A. No, I'm not allowed to have a cellphone in  
12 the Lea County Detention Center, no.

13 Q. At that time did the Government know?

14 A. I didn't notify them that I had this  
15 phone.

16 Q. When did you notify the Government that  
17 you had the phone?

18 A. When the Government -- a couple weeks ago.

19 Q. You said you used the internet on the  
20 phone. What did you use the internet for?

21 A. Watched -- went on YouTube, watched  
22 pornography, things like that.

23 Q. Now, you said your girlfriend brought it  
24 in. Who is your girlfriend?

25 A. Her name is Amelia Alvarado.



1 Q. Was she a corrections officer at the Lea  
2 County Detention Center?

3 A. Yeah, she is a corrections -- she was a  
4 former corrections officer, yes.

5 Q. How did your relationship with her start?

6 A. There at the county jail.

7 Q. And how often did you talk to her while  
8 she was working at the jail?

9 A. I talked to her every day.

10 Q. How did you do that?

11 A. There is a speaker inside the room on the  
12 wall, and she and I would communicate through that  
13 speaker that's on the wall.

14 Q. Did you talk to her on the days she wasn't  
15 working?

16 A. Yes, I did.

17 Q. How did you do that?

18 A. With the cellphone.

19 Q. Besides bringing in drugs and bringing the  
20 cellphone and talking to her while you were in jail,  
21 what else did you do with CO Alvarado?

22 A. I had sex with her.

23 Q. Are you allowed to have sex with a  
24 corrections officer while you're an inmate at Lea  
25 County Detention Center?

1 A. No, I'm not.

2 Q. How many times did you have sex with her?

3 A. Three.

4 Q. You and I met on February 3, two weeks  
5 ago, to prepare for your testimony. Do you recall  
6 that?

7 A. I do, sir, yes.

8 Q. At that time did you tell me about CO  
9 Alvarado and about the drugs and the cellphone?

10 A. I didn't let you know at that time, no,  
11 sir, I did not.

12 Q. I think you're misremembering. I think we  
13 met before that, January 23.

14 MS. DUNCAN: Your Honor, I'm going to  
15 object. Counsel is testifying.

16 THE COURT: Don't lead. You've got to  
17 work with your witness. Don't lead. I'll strike  
18 it. Start over.

19 A. I got confused with the dates. I'm sorry,  
20 I apologize.

21 BY MR. BECK:

22 Q. Two weeks ago we met on February 3.

23 A. Okay.

24 Q. Did we meet again about two and a half  
25 weeks before that, on January 23, to go over your

1 testimony?

2 A. Yes. My apologies.

3 Q. We'll start chronologically. It will be  
4 easier. At that time, when we met January 23, did  
5 you tell me about CO Alvarado?

6 A. I didn't, no.

7 Q. Did you tell me about the drugs?

8 A. I did not.

9 Q. Did I ask you about drugs on January 23?

10 A. You did ask me, yes.

11 Q. Did I ask you about the cellphone that was  
12 your cell on January 23?

13 A. Yes, you did.

14 Q. Did you tell me at that time it was your  
15 cellphone?

16 A. I did not say it was my cellphone, no.

17 Q. Did you tell me that CO Alvarado brought  
18 it in to you?

19 A. I did not.

20 Q. Did you tell me you watched porn on the  
21 cellphone?

22 A. No, I did not.

23 Q. Did you tell me you exchanged photos with  
24 CO Alvarado on January 23?

25 A. I don't remember. Maybe. I don't know.

1 Maybe I did not say it.

2 Q. How did you tell me on January 23 at that  
3 first meeting -- how did you tell me that cellphone  
4 got into the prison?

5 A. I said Richard Gallegos had got it through  
6 a friend of his, by the name of Pate.

7 Q. Pate?

8 A. Pate.

9 Q. And on January 23, did you tell me you had  
10 sex with CO Alvarado three times in the county  
11 detention center?

12 A. I did not, no.

13 Q. Why didn't you tell me?

14 A. I didn't want to reveal my relationship  
15 with her. I didn't want to get her into trouble.

16 Q. And why didn't you want to get CO Alvarado  
17 in trouble?

18 A. I was scared for her. I didn't want to  
19 drag her into this. I didn't want to ruin what I  
20 had with her, my relationship. If I revealed that,  
21 it was potentially in jeopardy of maybe ending. I  
22 wanted to protect her.

23 Q. You and I met again to prepare for your  
24 testimony a couple weeks ago, on February 3; is that  
25 right?

1 A. Yes.

2 Q. On February 3 did you tell me what you  
3 just told the members of the jury?

4 A. What do you mean?

5 Q. Did you tell me on February 3 about CO  
6 Alvarado and the drugs and --

7 A. Yes, I did.

8 Q. Before that, did you know that we had a  
9 letter from another inmate that said that the  
10 cellphone and the drugs were yours and came in  
11 through CO Alvarado?

12 A. I was aware of that, yes.

13 Q. Did you know that other inmates said that  
14 you gave them Suboxone?

15 A. Yes.

16 Q. Before February 3?

17 A. Yes.

18 Q. All right. I want to take you to March 7  
19 of 2014. Where were you at that time?

20 A. I was housed at Las Cruces, New Mexico,  
21 which is Southern New Mexico Correctional Facility.

22 Q. And did you stab Javier Molina on March 7,  
23 2014?

24 A. Yes.

25 Q. When was the first time you learned about

1 what was going to happen to Mr. Molina?

2 A. That day.

3 Q. What happened?

4 A. So another inmate had approached me and  
5 told me, "It's time to put in work."

6 Q. All right. When was this when this inmate  
7 approached you?

8 A. Okay. It was shortly after the count.  
9 Count had came, they cleared count, so we're -- all  
10 the inmates were all in the pod doing our thing.  
11 Another inmate had approached me. We went to my  
12 cell, he pulled out a shank, handed it over to me,  
13 and said, "It's time to put in work."

14 Q. Let me stop you there, Mr. Montoya.

15 A. Yes.

16 Q. Who was the inmate who approached you?

17 A. They call him Blue. His name is Mario  
18 Rodriguez. That's the one that I'm talking about.

19 Q. Where did he approach you?

20 A. In the pod, in the pod. He said, "Come  
21 here," called me to my cell. I followed him into my  
22 room. We went in. That's -- like I said, he pulled  
23 out the shank, handed it over to me. And he said,  
24 "It's time to put in work."

25 So I said, "On who?"

1 He says, "On Javier."

2 And I said, "For what?"

3 And he goes, "Because there is paperwork  
4 on him."

5 And I asked him to let me see it.

6 He said, "I don't have it no more. I sent  
7 it back next door," he goes, "but myself," he goes,  
8 "but Dan," meaning Daniel Sanchez, he goes, "Dan and  
9 I read it. It's legit paperwork."

10 So I said, "Okay." I said, "Who is going  
11 with me?"

12 He says, "You and Kreaper." And Kreaper  
13 is Jerry Armenta.

14 And I said, "Where at? Where do we do  
15 this at?"

16 He says, "You're going to do it in  
17 Javier's cell because it's a blind spot. They won't  
18 see it."

19 And I said, "We have to cover the cameras  
20 because they're going to see myself and Jerry  
21 Armenta going into the cell to go do this crime."

22 And he says, "No, no. We're not going to  
23 cover the cameras, because Dan Dan, Daniel Sanchez,  
24 didn't want the cameras covered."

25 And I said, "Why?"

1           He goes, "He just don't want them covered  
2 because he needs to be seen on camera that he had  
3 nothing to do with this because he has a court  
4 hearing coming up."

5           And so I was confused about that. I  
6 didn't feel comfortable with it. I mean, we needed  
7 to cover the cameras, and they didn't want to cover  
8 them. So he says --

9           MS. DUNCAN: Your Honor, I'm sorry, I'm  
10 going to object to the narrative.

11           THE COURT: Why don't you break it up a  
12 little bit? Do a Q and A.

13 BY MR. BECK:

14           Q. After you talked about -- after he hands  
15 you the shanks and you talk about the plan -- let me  
16 go back for one second. What did you understand he  
17 meant when he said, "It's time to put in work"?

18           A. It's time to stab somebody. It's time to  
19 put in work. It's time to go, showtime, violence.

20           Q. And what did you understand him to mean  
21 when he said: "Dan and I saw the paperwork. It's  
22 good"?

23           A. You know, they're just saying, "We've seen  
24 the paperwork. It's good. Just trust in me." You  
25 know, at the time, you know, they're my big homies,



1 so I figured they're not going to send me on this  
2 kamikaze mission to go and do this murder without it  
3 being valid. And --

4 Q. Who is Dan Dan that he was referring to?

5 A. Dan Dan is Daniel Sanchez.

6 Q. Do you see him here in this room?

7 A. Yeah.

8 Q. Where is he?

9 A. Right there.

10 Q. What is he wearing?

11 A. A suit and black glasses.

12 MR. BECK: Let the record reflect that Mr.  
13 Montoya identified the defendant Mr. Sanchez.

14 THE COURT: The record will so reflect.

15 BY MR. BECK:

16 Q. When you were talking in the room -- in  
17 your cell -- I'm going to bring up Government's  
18 Exhibit 164.

19 Mr. Montoya, I'm showing you Government's  
20 Exhibit 164. Do you see where that says that it's  
21 the B pod, 1-A, March 7, 2014?

22 A. Yes.

23 Q. What room were you in?

24 A. It's located at the top of the screen,  
25 113.

1 Q. I'm going to circle cell 113 there. Is  
2 that your room?

3 A. That's correct.

4 Q. And is this where the conversation with  
5 Mario Rodriguez, Blue, happened?

6 A. Yes.

7 Q. When you say you were out on the tier  
8 before he called you into the room to tell you this,  
9 where were you?

10 A. To the best of my knowledge, that I can  
11 remember, I'd be in the lower level, the lower  
12 walkway. Not in the day room, but by the shower and  
13 my cell, right there, there is a little stoop right  
14 there. So I was just chilling right there.

15 Q. All right. Can you reach the screen and  
16 point out where you think that was?

17 A. This area here.

18 Q. All right.

19 A. That's the lower level, and that's where I  
20 was.

21 Q. So you wrote a line through what's labeled  
22 the lower walkway?

23 A. Yeah, and I was about here.

24 Q. All right.

25 A. Somewhere about there when Blue called me

1 to the room.

2 Q. So right behind where there is a little  
3 diagonal line breaking up the common area?

4 A. Yes.

5 Q. When you were talking in the room with Mr.  
6 Rodriguez, I think you said he was telling you about  
7 why the cameras wouldn't be covered?

8 A. Yes.

9 Q. Did he also tell you -- and you said he  
10 said that Kreaper was going to be involved?

11 A. Yes, sir.

12 Q. Did he tell you any more of the plan?

13 A. Excuse me?

14 Q. Did he tell you any more of the plan?

15 A. Yeah, he did.

16 Q. What did he tell you?

17 A. Okay. So he tells me that the cameras  
18 were not to be covered. And then he just goes on to  
19 say, "I'm going in there with you guys. Don't  
20 worry. Red and I" -- Red being another individual  
21 by the name of Timothy Martinez -- he says, "We're  
22 going to be in there. Red is going to -- we're  
23 going to lure him by shooting up some Suboxones, and  
24 then Red is going to knock his ass out. Once he  
25 knocks him out, you guys come in and finish it, take

1 care of the rest."

2 Q. Did Mr. Rodriguez tell you where he got  
3 the shank that he handed you?

4 A. Yes.

5 Q. Where did he say that came from?

6 A. He said -- he told me that it came from  
7 Rudy Perez' walker.

8 Q. What happened after this conversation with  
9 Mr. Rodriguez?

10 A. He and I exited my cell. He then walked  
11 up to the commons area into the pod. I walked maybe  
12 halfway with him on the lower level. I turned back  
13 to my cell. The reason I turned back to my cell is  
14 because I was going to change clothing. I was in my  
15 gym shorts and a white T shirt, and I changed into  
16 my prison green uniform.

17 Q. All right. What happens after you change  
18 in your prison greens?

19 A. Okay. I changed. I put the shank in my  
20 sock. And then I'm just lingering around the pod,  
21 just burning time, just waiting for this plan to  
22 happen. Blue, Red, and Javier go up to Javier's  
23 cell.

24 Q. Let me stop before you get there.

25 A. Okay.

1 Q. At some point did you have a conversation  
2 with Defendant Sanchez?

3 A. Oh. I'm sorry, yes. Yeah, it was very  
4 brief. Yes, I did have one.

5 Q. At what point did this happen? Was this  
6 before or after you changed in your greens?

7 A. It was -- my apologies -- before, right  
8 when I was changing into my prison greens, Mr.  
9 Sanchez enters my cell. I have a very brief  
10 conversation with him. He says, "Did the carnal  
11 tell you what's going on?"

12 I said, "Yes."

13 He tells me, "Make sure it gets done and  
14 be trucha."

15 Q. What does that mean?

16 A. Make sure it gets done, the mission that  
17 they're sending us on, and be trucha, is just to be  
18 careful.

19 Q. And you said "carnal." What's a carnal?

20 A. A carnal means brother.

21 Q. Is that how you refer to other SNM  
22 members?

23 A. Yes.

24 Q. Is that how other SNM members refer to you  
25 sometimes?

1 A. That's how we used to talk.

2 Q. Did Mr. Sanchez say anything else, or was  
3 that the end of the conversation?

4 A. He and I shook hands and we exited my  
5 room, and we both walked up to the common area. And  
6 I was just there in limbo.

7 Q. All right. I'm going to show you what's  
8 been admitted as Government's Exhibit 11, starting  
9 with video channel 4. Are you familiar with  
10 Government's Exhibit 11?

11 A. Yes, I am, sir.

12 Q. What is this?

13 A. This is the video of the pod before the  
14 murder took place.

15 Q. So I'm going to start playing this for  
16 you, Mr. Montoya.

17 A. Okay.

18 Q. In the top left-hand corner it says  
19 channel 4, 3/7/2014, 17:17:18:406. I think earlier  
20 you said that you learned about this from Mr.  
21 Rodriguez sometime after count?

22 A. Yes, sir.

23 Q. Approximately what time did count end?

24 A. Count clears at 5:00, sir.

25 Q. At 17:17:18, is this close in time but

1 after you learned from Mr. Rodriguez what the plan  
2 was?

3 A. Yes. It was -- from right there is  
4 afterwards. But yes, it's close in time.

5 Q. And I'm going to start playing the video  
6 for us.

7 A. Okay.

8 (Tape played.)

9 Q. If you'll press pause, please.  
10 Mr. Montoya, are you -- sorry, the video  
11 says 17:17:34:406. Are you in this frame?

12 A. I am, sir.

13 Q. Where are you?

14 A. I'm going up the stairs. I'm at the  
15 bottom of the stairwell.

16 Q. I'm going to circle the individual at the  
17 bottom of the stairwell in green. Is that you?

18 A. Yes, sir, it is.

19 Q. And when you said you're putting on your  
20 uniform greens, is that the green uniform you're  
21 wearing there in that frame?

22 A. That's the clothing I'm speaking of, yes.

23 Q. Please press play.

24 (Tape played.)

25 Q. What are you doing at this point in the

1 video?

2 A. Just waiting, lingering, confused,  
3 thinking. Not knowing really what to do.

4 (Tape played.)

5 A. I'm just buying time, I guess, right  
6 there.

7 Q. Please press pause.

8 The time now is 17:18:25:406. Is  
9 Mr. Molina in this frame?

10 A. Yes, he is, sir.

11 Q. Where is he?

12 A. He's right above where it says 1A-B pod on  
13 the right-hand side.

14 Q. The right-hand side, I'm going to circle  
15 the gentleman above 1-A-B pod. Is that Mr. Molina?

16 A. Yes, sir.

17 (Tape played.)

18 Q. Now, at 17:18:35:406, what just happened?

19 A. Mario Rodriguez and Javier Molina had just  
20 entered the cell. They're getting ready to mix up  
21 the Suboxones.

22 Q. Please press play.

23 (Tape played.)

24 Q. And who is at the top left of this screen  
25 in the video right now?



1 A. That's Jerry Armenta, Kreater.

2 Q. Please press pause.

3 The time now is 17:19:09:406. What just  
4 happened?

5 A. Jerry Armenta went and sat down, and I  
6 followed him. I sat down right next to him. I'm  
7 right there with the cap on, with the greens and the  
8 white towel over my shoulder.

9 Q. All right. At this point do you have your  
10 shank?

11 A. Yes, I do. It's in my sock.

12 Q. And do you and Mr. Armenta say something  
13 to one another while you're seated here?

14 A. Yes. Yes, sir.

15 Q. What do you say?

16 A. I told him, I said, "Like, what do we do?"

17 And then he shook his head. And I told  
18 him, "It's either him or us."

19 And he just repeated what I said to him.  
20 He repeats back to me, "It's either him or us."

21 And that was the extent that I recall of  
22 our conversation at the top tier.

23 Q. Why are you seated up here at the top of  
24 the stairs?

25 A. I'm waiting for my cue to go into the

1 room, for Mario Rodriguez to call myself and Jerry  
2 Armenta into the room to stab Javier.

3 Q. Can you see what's going on in the room  
4 from where you're seated there?

5 A. I could see what's going on, yes.

6 Q. And just so we're clear, where is  
7 Mr. Javier Molina's cell?

8 A. In this frame, it's right there to the  
9 right-hand side. You could see it right in the  
10 corner, right in the middle.

11 Q. Is that the cell we see half of on the  
12 top?

13 A. Yes, that's the cell right there.

14 Q. Please press play.

15 (Tape played.)

16 Q. So as this video is playing, is this when  
17 you and Mr. Armenta are talking with one another?

18 A. Yes, we have a conversation, sir. There  
19 they go.

20 Q. Please press pause. The time is now  
21 17:20:09:406. What did we just see in the last  
22 couple seconds?

23 A. The last couple seconds on screen was me  
24 walking over to Javier Molina's room. I bend over  
25 to pick up a piece of plastic paper for no apparent

1 reason. Jerry Armenta walks in before me, and we're  
2 getting ready.

3 Q. What did you see in Mr. Molina's cell  
4 before you walked in there?

5 A. I seen him getting choked out, and -- he  
6 was getting choked out, and right when he's getting  
7 choked out, Mario Rodriguez calls us in.

8 Q. And who was choking Mr. Molina?

9 A. Red, Timothy Martinez, was choking him.  
10 And Mario Rodriguez is holding his hands down so he  
11 can't take off the choke hold.

12 Q. Please press play.

13 (Tape played.)

14 Q. Please press pause.

15 The time is now 17:20:24:406. Who did we  
16 just see exit the room?

17 A. I think that's Timothy Martinez.

18 Q. And what's going on inside the room right  
19 now?

20 A. So Timothy lets him go. He exits the  
21 room. And right now he's looking back at me and  
22 Jerry Armenta stabbing Javier.

23 Q. And how did you stab Javier Molina?

24 A. With a shank.

25 Q. How did you do it in the room? Where were

1 you positioned?

2 A. Javier Molina was passed out on the floor.  
3 I had my shank in my hand. I hovered over him and  
4 stabbed him.

5 Q. Where were his feet in relation to the  
6 door of the cell?

7 A. Okay. His feet were positioned towards  
8 the cell door. His head was to the back wall by the  
9 window.

10 Q. Was he on his back? Was he on his front,  
11 his side?

12 A. He was laying on his back because he was  
13 passed out.

14 Q. Where did you position yourself?

15 A. I positioned myself by his waist, and so I  
16 could be above his chest area. And that's where I  
17 stabbed him, on his chest area.

18 Q. Was your head above his head? Were you  
19 positioned the same direction as him?

20 A. We were facing opposite. So I'm hovering  
21 over him. He's right there and I'm looking at him  
22 direct. I'm looking down at him. So, you know,  
23 we're opposite of one another.

24 Q. Are you on top of him at this point?

25 A. Yes, I guess I'm on top of him, yes.

1 Q. And where did you stab Javier Molina?

2 A. In his chest.

3 Q. How many times if you know?

4 A. Half -- maybe 20 times.

5 Q. And what happened?

6 A. I stabbed him and he died. Sorry.

7 Q. What happens in the room?

8 A. Oh, sorry.

9 So we were stabbing him. He gains  
10 consciousness, and he gets up, and he says -- he  
11 says, "Yasuvo, carnal, yasuvo," meaning, "I'm done,  
12 I'm done." He says, "Let me go. Let me go."

13 And I'm telling him -- pointing at him,  
14 and I'm telling him, "Stay the F away from me,  
15 Javier. Don't come near me."

16 Mario Rodriguez says, "They called it.  
17 They called it," meaning they called the code. So I  
18 turned back to look at Mario Rodriguez. I attempt  
19 to hand him the shank. He says, "No, not yet. I  
20 plan on doing that when all that's happening."

21 Javier Molina exits the cell. He just  
22 bulldozes his way out the door.

23 Q. Please press play.

24 (Tape played.)

25 A. That happened now.

1 Q. And in the video now, is this where you're  
2 stabbing Mr. Molina?

3 A. Yes.

4 Q. Please press pause.

5 The time is now 17:20:53:406. What have  
6 we just seen in the last couple of seconds?

7 A. Javier Molina exiting the room. Me and  
8 Mario Rodriguez came close together. When we came  
9 close together, that's when Javier Molina bulldozes  
10 his way out the room. Right there in this frame  
11 that's paused now is Mario Rodriguez telling me to  
12 get him, so I'm following him right now.

13 Q. And I think you said just a couple minutes  
14 ago that you were trying to hand Mario Rodriguez  
15 your shank. Why were you doing that?

16 A. That was part of the plan. He told me,  
17 "When it's done, hand the shank and I'll get rid of  
18 it for you." So I had done my part and I was done  
19 doing my part. So I attempted to pass over the  
20 shank to Mario Rodriguez, and which he negated at  
21 that time.

22 Q. When he said then, "Get him, get him,"  
23 what did you take that to mean?

24 A. To continue the other -- to continue the  
25 stabbing on Javier.

1 Q. Did you do that?

2 A. I did do it.

3 Q. Please press play.

4 (Tape played.)

5 Q. Please press pause.

6 The time stamp is now 17:21:04:421. Is  
7 this you at the bottom of the screen, in the greens  
8 with the white cap on?

9 A. Yes, sir, it is.

10 Q. And what did you just do in those last  
11 couple seconds?

12 A. I assaulted and stabbed Javier.

13 Q. And it's difficult to see on this video.  
14 It almost looks like you're punching Mr. Molina.  
15 But what are you doing?

16 A. You can't see, but I have a shank in my  
17 hand. I'm stabbing him.

18 Q. And why can't we see that?

19 A. The quality of the video. But I had it  
20 positioned in my hand to where it was concealed  
21 pretty well, so the video didn't capture it, because  
22 of the way I had it.

23 Q. Did you hide it intentionally because you  
24 knew you were being filmed?

25 A. Yes, I did.

1 Q. Please press play.

2 (Tape played.)

3 Q. Please press pause. The time stamp is now  
4 17:21:14. What have we just seen in the last couple  
5 seconds?

6 A. I seen myself getting rid of the shank. I  
7 flicked it upstairs to Mario Rodriguez. And the  
8 video doesn't capture that, but that's what I did.

9 Q. Is that why we saw Mr. Rodriguez bending  
10 down?

11 A. Yes, sir.

12 Q. Did he pick up your shank?

13 A. He did.

14 Q. And where are you now in this frame?

15 A. I'm in the bottom level. I went  
16 downstairs. I'm on the bottom level going to my  
17 cell.

18 Q. What do you do when you get in your cell?

19 A. I take off those clothes, go in my room,  
20 and I switched clothing.

21 Q. Please press play.

22 (Tape played.)

23 Q. And you can stop.

24 When you stabbed Mr. Molina in the chest,  
25 did you kill him?



1 A. Yes, I did.

2 Q. Did you have a personal beef with  
3 Mr. Molina?

4 A. I had no personal beef with Mr. Molina,  
5 no.

6 Q. What were you doing earlier that day at  
7 rec time?

8 A. I was playing handball with Mr. Molina.  
9 He was my partner.

10 Q. Was that before or after you learned from  
11 Mario Rodriguez that you were going to have to kill  
12 Mr. Molina?

13 A. That was before.

14 Q. Now, I want to take you back a couple  
15 weeks -- or it might be a couple weeks. I want to  
16 take you back before March 14, 2017, to a  
17 conversation that you had with the defendant Daniel  
18 Sanchez, which talked about sending a clear message.  
19 Do you remember that conversation?

20 A. Yes, I do, sir.

21 Q. When was that?

22 A. It happened there in the pod. He and --  
23 Daniel Sanchez and I were talking. I wanted to get  
24 a big SNM tattoo on my stomach, and Daniel Sanchez  
25 had a problem with it. He told me that carnals are

1 brothers there that were in that pod hadn't earned  
2 the right to sport the SNM tattoo or the Zia symbol  
3 with the S.

4 Q. All right. Let me hold you right there  
5 for one second. Is this still in 1-A blue pod?

6 A. This is, yes.

7 Q. And you may have said this, but I don't  
8 remember it. What was Mr. Sanchez' position in that  
9 pod?

10 A. He was the llavero, meaning held the keys  
11 to call shots, the shot-caller in my pod.

12 Q. Does that mean he's the leader of that  
13 pod?

14 A. Excuse me?

15 Q. Does that mean he's the leader of that  
16 pod?

17 A. Oh, yeah, he's -- yeah.

18 Q. And will you bring back up Exhibit 164,  
19 please.

20 Was this conversation happening in the  
21 lower level?

22 A. It was happening at my door. We were  
23 talking at the window of 113.

24 Q. So you're still in cell 113 at that time?

25 A. Yes, sir.

1 Q. So I think you said that he was talking  
2 about carnals in the pod not earning their tattoos?

3 A. Yes.

4 Q. What did he say then?

5 A. He -- we went on. Our conversation went  
6 on. Like I said, he was just displeased with the  
7 brothers putting on the tattoo when they hadn't  
8 earned it. So his position was: You have to earn  
9 the tattoo. And he said that he's sick and tired of  
10 us, the SNM in that unit, putting on the tattoo and  
11 not doing nothing for it; and people going into our  
12 unit -- "people" meaning other rival gangs that  
13 accidentally get shuffled into our pod, and not  
14 leaving our pod -- they're PC'ing out of our unit  
15 without a scratch on them.

16 Q. Let me stop you there for one second. You  
17 said a couple of things there. What does PC mean?

18 A. Protective custody.

19 Q. And what does it mean to PC out of a pod?

20 A. It means to leave, to get of harm's way,  
21 to get out.

22 Q. And why would it be significant that other  
23 gang members are leaving your SNM pod without a  
24 scratch on them?

25 A. Well, that's our SNM pod, and they're

1 leaving -- they're going to, you know, committee,  
2 and not coming back. They're PC'ing from the  
3 committee and going to another unit without a  
4 scratch on them, which he was upset about. And --

5 Q. Is it an SNM rule that you're supposed to  
6 hit or assault rival gang members when you're  
7 incarcerated with them?

8 A. If you're able to, you get them. That's  
9 it.

10 Q. So he said he was sick and tired of people  
11 PC'ing out of the pod?

12 A. Yes.

13 Q. What else did he say?

14 A. He just said any carnals here, if they're  
15 not down to pick up a piece, a fierro, and put it to  
16 use, and if they're not down to pick up time for the  
17 SNM, to get the hell out, to get off the unit. Do  
18 us all a favor and just leave.

19 Q. What does "pick up a fierro" mean?

20 A. "Pick up a fierro" is like getting a shank  
21 and putting it to use, using it.

22 Q. And then you said "getting more time."  
23 What happens when someone is shanked in a pod? What  
24 happens to the person who shanked him?

25 A. Well, you could potentially receive more

1 jail time, more prison time added onto your sentence  
2 that you're already doing. And that's what he meant  
3 by that. You know if you're not willing to pick up  
4 more time, just leave.

5 Q. Did he say anything else in this  
6 conversation?

7 A. That's all I can remember at this time.  
8 That's the extent of our conversation.

9 MS. DUNCAN: Your Honor, could we ask for  
10 a limiting instruction?

11 THE COURT: I think it's 803(3), so I  
12 don't think that you're entitled to a limiting  
13 instruction.

14 BY MR. BECK:

15 Q. What did you understand Mr. Sanchez to be  
16 conveying to you during this conversation?

17 A. If you ain't down for the cause of the  
18 SNM, to put in work, put in violence for it, just to  
19 PC yourself out, then. Do us all a favor and PC,  
20 just get out. That's what I took from it.

21 Q. And how soon -- how close in time was this  
22 to the Molina murder?

23 A. A few weeks, maybe.

24 Q. You said that you had assaulted rival gang  
25 members when you first joined the gang?

1 A. Yes, sir.

2 Q. Have you stabbed any other gang members?

3 A. No, I did not.

4 Q. I want to talk to you about a conversation  
5 you had with Mr. Baca at the door to your cell when  
6 you were in yellow pod at the Southern facility.

7 A. Yes, sir.

8 Q. Who was that conversation with?

9 A. Myself and Anthony Baca.

10 Q. And is Mr. Baca in the courtroom today?

11 A. Yes, he is.

12 Q. Where is he?

13 A. In the back over there.

14 Q. What is he wearing?

15 A. A green suit.

16 MR. BECK: Let the record reflect Mr.  
17 Montoya identified the defendant Baca.

18 THE COURT: The record will so reflect.

19 BY MR. BECK:

20 Q. What was Mr. Baca's position in the SNM at  
21 that time?

22 A. At that time, what I understood, he was  
23 the leader of all of the SNM.

24 Q. Now, I'm going to show you Government's  
25 Exhibit 162. Do you recognize what's depicted in

1 that picture?

2 A. It's a diagram of our unit, SNM unit.

3 Q. I think when this conversation occurred  
4 with Mr. Baca, you said you were in yellow pod?

5 A. Yes, we were in yellow pod at my door.

6 Q. And where is that on this diagram?

7 A. It's the middle. It's the middle pod.

8 Q. I'm going to mark that with a Y. And  
9 where is blue pod in relation to this?

10 A. It would be to the right of that.

11 Q. Is that down here on the bottom, where I  
12 just marked B?

13 A. Yes, sir.

14 Q. And which cell were you in when you had  
15 this conversation with Mr. Baca?

16 A. I was on the bottom level in 114.

17 Q. All right. Is that this cell, three from  
18 the shower?

19 A. Yes.

20 Q. And what happened in that conversation  
21 with Mr. Baca?

22 A. He and I just -- we discussed my future.  
23 And I was getting ready to parole out, to leave the  
24 facility at that time. I had two or three years at  
25 that time he and I had this conversation. And he

1 asked me -- you know, he and I were barely getting  
2 to know each other. I hadn't known him before that.  
3 So we're getting acquainted with one another.

4 Q. So let me ask you this: If you had three  
5 to four years there, was this during the point in  
6 time when you were telling us about earlier where  
7 you had stopped using Suboxone and started selling  
8 it to build up your \$5,000?

9 A. I was clean, yes.

10 Q. So this conversation with Mr. Baca  
11 happened while you were selling those drugs?

12 A. Yes.

13 Q. And what did Mr. Baca tell you the plan  
14 for you was?

15 A. We discussed -- I told him a little bit  
16 about me and my background, who I am. He wanted to  
17 know my strengths. And I told him where I was from,  
18 what I did out there on the streets. I told him I  
19 had drug connections, that I sold drugs out there on  
20 the street. And I -- you know, I guess Mr. Baca had  
21 seen potential in that. He asked me, "You know,  
22 when you get out, you could do good things for the  
23 onda, for the SNM, for the gang. I could put you to  
24 work to be a treasurer; you know, collect money,  
25 sell dope for the clique."



1 And I obliged; I was all for it at that  
2 time.

3 Q. Let me stop you there. I think you talked  
4 about what you did on the streets before you became  
5 an SNM member. What did you do on the streets  
6 before you became an SNM member, in 2001, when you  
7 got your murder conviction?

8 A. I sold dope.

9 Q. For how long before 2001?

10 A. That's all I ever done.

11 Q. And who would you sell dope to?

12 A. Dope fiends on the street. Drug addicts.

13 Q. What drugs did you sell?

14 A. Cocaine, rock cocaine.

15 Q. Were you a drug dealer before you went to  
16 prison in 2001?

17 A. I was, yes.

18 Q. So Mr. Baca said he wanted you to be a  
19 treasurer. What did he explain to you that meant?

20 A. He told me, you know, to meet up with  
21 brothers out there, you know, that weren't really  
22 using drugs and that were doing good for themselves.  
23 That was my take on it, you know. And everybody at  
24 the end of, you know, the month or a couple of  
25 weeks, put a pot together of money. So I collect

1 money for whatever duration at that time, whatever,  
2 till we reached our goal, and then do something with  
3 that money, whether turn it -- "turn it" meaning buy  
4 additional drugs to make more money, and more drugs,  
5 things like that. Then I was under the impression  
6 like, "You want me to send any money or dope back?"

7 Right away, he's, like, "No, you don't got  
8 to send anything back right away. Build it up out  
9 there. Then, you know, when everyone is on their  
10 feet, when things are going good, maybe you could  
11 trickle some of that dope money and that dope down,  
12 you know, our way."

13 Q. So send it back. What did you understand  
14 he meant when he talked about sending money back?

15 A. Just contributing to the brothers there.  
16 And everyone is not rich, so, you know, give money  
17 to the SNM.

18 Q. The brothers there, do you mean the SNM  
19 members inside of the prison?

20 A. I mean the SNM members inside the prison,  
21 yes.

22 Q. During the state case of the murder of  
23 Javier Molina, was Jerry Armenta a co-defendant of  
24 yours in that case?

25 A. He was, yes.

1 Q. Did he write a letter to you to give to  
2 your lawyer saying that he was responsible for the  
3 murder?

4 A. He did.

5 Q. What did you know about that letter?

6 A. I didn't know too much about that letter.  
7 It came to me as a surprise. I didn't ask him to  
8 write it.

9 Q. But did you discuss with Mr. Armenta  
10 before he wrote that letter that he was going to  
11 take the responsibility for the murder?

12 A. Blue -- Blue had came up with that idea of  
13 Jerry Armenta taking full responsibility of the  
14 Molina murder, yes.

15 Q. And how do you know Blue, Mario  
16 Rodriguez -- is that Mario Rodriguez, Blue?

17 A. Blue is Mario Rodriguez.

18 Q. And how do you know Mr. Rodriguez came up  
19 with that idea?

20 A. He discussed it with me. He told me.

21 Q. Did you discuss that with Mr. Armenta  
22 before he wrote that letter?

23 A. No, I didn't.

24 Q. And did you receive that letter?

25 A. I received it, yes.

1 Q. When you read through that letter -- let  
2 me put it up.

3 A. Okay.

4 Q. Exhibit 756. I'm showing you what's been  
5 admitted as Exhibit 756. It looks to me like in  
6 that third paragraph where he discusses what  
7 happened inside the cell. Do you see that?

8 A. Where it says "Jerry Montoya and I"?

9 Q. Right.

10 A. Okay.

11 Q. Go ahead. And if you haven't read this in  
12 a while, go ahead and read through that paragraph,  
13 and tell me when you're done.

14 Are you familiar with that third paragraph  
15 there?

16 A. Yes, sir, I am. It reads --

17 Q. You don't have to read it.

18 A. Okay.

19 Q. Basically, does it say that -- does it say  
20 that the Molina murder was because of hostility  
21 between Jerry Armenta and Mr. Molina in that cell?

22 A. Yes, that he disrespected Jerry Armenta.

23 Q. And the last sentence in that, "Jerry  
24 Montoya did not know what was going to happen. I  
25 didn't even know it was going to happen. I acted

1 clearly out of instinct, felt that it or my life was  
2 in clear and present danger." Is that true?

3 A. No, it's not.

4 Q. When you received that letter, what did  
5 you do with it?

6 A. I turned it in to my attorney.

7 Q. Did you turn it in to your attorney and  
8 tell your attorney that it was true?

9 A. I did.

10 Q. Why did you do that?

11 A. Because that was my way out. That was my  
12 ticket to freedom. That was my way out of jail.  
13 And I had to spend a significant amount of prison  
14 time. And I wanted to get out. And that letter was  
15 my way out potentially.

16 Q. I want to talk about the rules and  
17 leadership in the SNM gang. If an SNM member is  
18 challenging a leader to become a leader of the SNM,  
19 what does that leader who is being challenged have  
20 to do?

21 A. He has to defend his position.

22 Q. Is that a rule of the SNM enterprise that  
23 he has to defend his position?

24 A. Absolutely.

25 Q. Why is that?

1           A.     Because I'm pretty sure the leader at that  
2 moment in time is not wanting to relinquish his  
3 leadership into something so powerful.

4           Q.     And when you were at the Southern New  
5 Mexico Correctional Facility with Defendant Baca,  
6 what was his position in the SNM? I think you  
7 said --

8           A.     His position was the ultimate leader of  
9 the SNM.

10           THE COURT: Mr. Beck, would this be a good  
11 time for us to take our afternoon break?

12           MR. BECK: It would, Your Honor.

13           THE COURT: All right. We'll be in recess  
14 for about 15 minutes. All rise.

15           (The jury left the courtroom.)

16           THE COURT: All right. We'll be in recess  
17 for about 15 minutes.

18           (The Court stood in recess.)

19           THE COURT: Let's go on the record. Ms.  
20 Fox-Young, did you have some exhibits you need to  
21 admit? Do you want to do that while we're waiting  
22 for the jury?

23           MS. FOX-YOUNG: Yes, Your Honor. Your  
24 Honor, we move the admission of V1, V2, V3, V4, V6,  
25 V7, V9, V10, V11, V12, V14, V16, V17, V18, V19, V20,

1 V21, V22, V23, V26, V27, V28, V29, V30, and V31.

2 And I believe the Government doesn't object.

3 THE COURT: Is that correct?

4 MR. BECK: No objection, Your Honor.

5 MS. JACKS: Your Honor, this is the first  
6 I'm hearing of it. I'd just like a chance to review  
7 it and see if I have any objection.

8 MS. DUNCAN: Your Honor, Team Baca also  
9 has an issue we'd like to raise with you before the  
10 jury comes in, after we deal with this.

11 THE COURT: Go ahead.

12 MS. DUNCAN: So I think Mr. Beck is about  
13 to get into a line of questioning that was disclosed  
14 to us a week ago about a purported feud between Mr.  
15 Baca and Mr. Rubio. And we'd ask the Court to  
16 exclude this line of questioning. It's not relevant  
17 to any fact at issue in this case. It's more  
18 prejudicial than it is probative. It's about an  
19 alleged feud; that Mr. Baca ended up putting a bunch  
20 of magazines around his body to protect himself from  
21 Mr. Rubio, going out into the yard for a  
22 confrontation. And that --

23 THE COURT: Let me ask this: I don't see  
24 that on any of the letters, so I don't have any  
25 knowledge of this.

1 MR. BECK: There's no statements. This is  
2 actually conduct. Well, I guess there might be a  
3 couple of statements; that's not true. It was just  
4 disclosed to us on February 3. And it was disclosed  
5 to counsel, via 302, right after that. I don't  
6 think you would have that.

7 MS. DUNCAN: I have it here, Your Honor,  
8 if you'd like.

9 THE COURT: Let me look at the 302,  
10 because this isn't ringing any bells with Mr.  
11 Montoya for me.

12 MS. DUNCAN: For the record, Your Honor,  
13 it's Bates No. 51643.

14 THE COURT: Why don't you do this:  
15 Approach before you get into this, because this is  
16 all kind of new to me. I'm not sure I've seen this  
17 302.

18 MR. BECK: All right.

19 THE COURT: Was there an objection, Ms.  
20 Jacks?

21 MS. JACKS: I just need some time. This  
22 is a bunch of physical location histories. And if I  
23 could have until tomorrow morning to respond, that's  
24 what I would like. Thank you.

25 THE COURT: All right. All rise.



1 (The jury entered the courtroom.)

2 THE COURT: All right. Everyone be  
3 seated.

4 All right. Mr. Montoya, you're still  
5 under oath.

6 Mr. Beck, if you wish to continue your  
7 direct examination of Mr. Montoya, you may do so at  
8 this time.

9 BY MR. BECK:

10 Q. Mr. Montoya, we were just talking about  
11 the rules of SNM leaders being challenged. Who was  
12 the leader of green pod at the time you were at  
13 Southern?

14 A. To my understanding, when I was there,  
15 Javier Rubio was one of them; Benjamin Clark might  
16 have had an influence as well. His name is Cyclone.

17 Q. Does Javier Rubio also go by BB?

18 A. Yes, he does.

19 Q. I want to show you what's been admitted as  
20 Government's Exhibit 72. What is that?

21 A. That's the shank that I had.

22 Q. And what happened after you stabbed Javier  
23 Molina with this shank?

24 A. I gave that shank to Mario Rodriguez,  
25 Blue, and he went to destroy it and dispose of it,

1 and that's the aftermath of that.

2 Q. And the wrapping on there -- what's the  
3 plastic wrapping?

4 A. It's just basic Saran Wrap.

5 Q. One moment.

6 A. It's for the handle.

7 Q. I'm going to show you what's been admitted  
8 as Government's Exhibit 3. What is that?

9 A. That's a piece of metal. That's a shank.

10 Q. Is that the shank that you stabbed Javier  
11 Molina with?

12 A. Yes, sir. Yes, it is.

13 Q. Just to be clear, was that shank bent when  
14 you stabbed Javier Molina with it?

15 A. It was not, no.

16 Q. Was it straight at that time?

17 A. It was straight at that time, yes.

18 Q. I want to talk to you about a conversation  
19 you had when you were detained in Torrance County.

20 Do you know who Rudy Perez is?

21 A. Yes, I know him.

22 Q. Who is Rudy Perez?

23 A. Rudy Perez is Rudy, Roo Dog.

24 Q. Is he in this courtroom?

25 A. Yes, he is.

1 Q. Where is he?

2 A. Sitting at the table, with the glasses on.

3 Q. What is he wearing? Is he wearing a  
4 sweatshirt?

5 A. Gray sweater, gray hair.

6 MR. BECK: Let the record reflect that Mr.  
7 Montoya identified the Defendant Rudy Perez.

8 THE COURT: The record will so reflect.

9 BY MR. BECK:

10 Q. Did you have a conversation in Torrance  
11 County with Mr. Perez?

12 A. Yes, I did.

13 Q. Was that after the indictment in this  
14 case?

15 A. Yes. We were housed at Torrance County  
16 together.

17 Q. Did Mr. Perez tell you what he did in this  
18 case?

19 A. Yes, he did.

20 Q. What did he say he did?

21 MS. JACKS: Can we ask for a limiting  
22 instruction?

23 THE COURT: Why don't y'all approach and  
24 tell me which conversation this is.

25 (The following proceedings were held at

1 the bench.)

2 THE COURT: Which one is this? Is this  
3 where Perez admits to Montoya -- admits that he  
4 provided the shanks?

5 MR. BECK: Yes.

6 MS. JACKS: I think this is the one they  
7 brought up earlier.

8 MR. BECK: Yes.

9 THE COURT: I think this is not going to  
10 come in under the co-conspirator statement. It's  
11 going to be admissible against Perez.

12 MR. BECK: Yes.

13 THE COURT: And you're going to exclude  
14 the mention of Sanchez?

15 MR. BECK: Yes.

16 THE COURT: Even if you didn't, I'd  
17 probably keep it out under 403.

18 MR. BECK: Sure.

19 THE COURT: Okay. Well, I'll deal with  
20 you later.

21 MS. FOX-YOUNG: Do you want me to do it  
22 now?

23 THE COURT: I just don't see how it's  
24 coming in. But I'll give you a shot during your  
25 cross.

1 MR. BECK: Your Honor, this is probably a  
2 good time. I think all I have left after this is  
3 the incident with Javier Rubio, BB.

4 THE COURT: This is the one with the  
5 statement that Ms. Duncan just handed me?

6 MR. BECK: That's right.

7 THE COURT: Let me take a look at that.  
8 Go ahead.

9 (The following proceedings were held in  
10 open court.)

11 BY MR. BECK:

12 Q. Mr. Montoya, when you were talking with  
13 Mr. Perez, did he tell you that he provided his  
14 walker to be fashioned into the shanks in this case?

15 A. Yes, he did.

16 Q. And what -- did he say that that was --  
17 what did he say about him doing that?

18 A. That he wasn't in such good health; you  
19 know, that was his way of contributing to the SNM.

20 Q. And what did you understand him to mean by  
21 that?

22 A. My understanding is that he's in fairly  
23 bad health, and he can't put in work himself, you  
24 know. So in order for him, you know, to stay in  
25 good graces with the SNM, they asked him a favor, to

1 get a piece of metal off of his walker. And he  
2 obliged, and he gave up that piece of metal to  
3 contribute whatever.

4 Q. So did you understand that to be his way  
5 of putting in work?

6 A. Absolutely, yes.

7 Q. And how did you put in work in the Javier  
8 Molina murder?

9 MS. JACKS: May I just interrupt, and ask  
10 for a limiting instruction, please?

11 THE COURT: Well, right now it's just a  
12 statement that's admissible against Mr. Perez. So  
13 you can only consider this in discussing the charges  
14 against Mr. Perez. You can't use this statement for  
15 discussing the charges against any of the other  
16 defendants.

17 Mr. Beck.

18 BY MR. BECK:

19 Q. And how did you put in work in the Javier  
20 Molina murder?

21 A. I had to go and stab Javier. That's how I  
22 put in work.

23 MR. BECK: Your Honor, may we approach?

24 THE COURT: You may.

25

1 (The following proceedings were held at  
2 the bench.)

3 THE COURT: I think if I've got a grasp of  
4 what the statement is -- I don't know what I did  
5 with it up here, but I read it. What's your  
6 objection to it?

7 MS. DUNCAN: I had a couple of objections,  
8 Your Honor. One, it was just disclosed to us after  
9 Javier Rubio --

10 THE COURT: I don't have it in front of  
11 me. But the 302, I think, was dated February 3. So  
12 this has come up in the middle of the trial?

13 MS. DUNCAN: That's correct. So it came  
14 up after Javier Rubio testified, is one; so it's too  
15 late for us to do anything with it.

16 THE COURT: Is he subject to recall?

17 MS. DUNCAN: He is. But I'd rather not  
18 re-call him. I would have rather gotten it out on  
19 cross. This is not relevant, assuming it's true.  
20 These two had a beef and they resolved it with  
21 violence.

22 THE COURT: What are you hoping to do with  
23 the statement?

24 MR. BECK: I think it's probative of the  
25 fact that Anthony Baca was a leader, that when he

1 was challenged in his leadership position by BB,  
2 that he was going to go out there and handle it,  
3 just as this witness testified to. That's how the  
4 SNM operates. So I think it's extremely probative  
5 of that.

6 I also think it's probative of the fact  
7 that just the way that the gang operates, that when  
8 they're the challenged, they have to go battle it  
9 out; that Mr. Baca was willing to put in work. I  
10 don't think the danger of unfair prejudice outweighs  
11 the probative value, because nothing came of it.  
12 They're not disputing that Mr. Baca never stabbed  
13 Mr. Rubio. We haven't got in, in that there was --  
14 Mr. Baca put a hit on Rubio, the Court has ruled, I  
15 understand it's probative of Mr. Baca being a leader  
16 of the SNM, which is why he's indicted, which he is.

17 MS. DUNCAN: This witness has already  
18 testified Mr. Baca is a leader in the SNM. I think  
19 for these two men, it raises a sub issue because  
20 they went out and had this conversation and resolved  
21 it, it brings the specter of violence for no real  
22 purpose in this case. For that reason, we also ask  
23 you to exclude it.

24 THE COURT: I do think it has some 401  
25 relevant purpose, and that seems to be the really



1 only attack here. I don't see it being a 403  
2 problem. So I'm going to overrule the objection and  
3 allow the Government to ask the question. There are  
4 going to be statements that come up, and I'm just  
5 going to deal with them in trial, and this looks  
6 like one of them. So I'll overrule the objection.

7 MS. DUNCAN: Can I get the 302 back from  
8 you?

9 THE COURT: When I find it.

10 MS. FOX-YOUNG: Just so I know, am I  
11 permitted to question on Mario Rodriguez with regard  
12 to that statement?

13 THE COURT: Of what he said about Perez,  
14 yeah, but you can't -- I don't think you can bring  
15 up the statement of what Mr. Montoya is saying that  
16 Mr. Sanchez said.

17 MS. FOX-YOUNG: I understand. I just want  
18 to make sure that I'm following the Court's order,  
19 if I ask about Mario.

20 THE COURT: I don't know if anybody has  
21 any objection to that.

22 MR. BECK: I think that's fair.

23 THE COURT: So if you don't go in that  
24 direction, I don't have any problem with it.

25 If I find it, I'll tell you.

1 MS. DUNCAN: Thank you. I appreciate it.

2 (The following proceedings were held in  
3 open court.)

4 THE COURT: All right. Mr. Beck.

5 BY MR. BECK:

6 Q. Mr. Montoya, during the time you were at  
7 Southern New Mexico Correctional Facility with Mr.  
8 Baca and Javier Rubio, or BB, did Mr. Baca ever feel  
9 like his leadership was being challenged by Mr.  
10 Rubio?

11 A. That's what I understood, yes.

12 Q. What happened?

13 A. They were having a dispute over prison  
14 politics. Javier Rubio and others in green pod  
15 didn't agree with the way Mr. Baca was running the  
16 unit, or his rules of the SNM. I don't know the  
17 specifics of his dispute with him, but --

18 Q. And at some point did you talk about this  
19 with Mr. Baca?

20 A. Yes.

21 Q. Where were you?

22 A. We were in his cell.

23 Q. Which pod were you in?

24 A. It was on the lower level, 111. We had  
25 that conversation.

1 Q. Was this in blue pod or yellow pod?

2 A. Blue pod. Blue pod.

3 Q. And what did Mr. Baca do because he  
4 believed that Mr. Rubio was challenging him for his  
5 leadership?

6 A. He was going to go out there and defend  
7 himself, his leadership position.

8 Q. What happened when you were in cell 111  
9 and he told you that?

10 A. He asked me and another individual, Chris  
11 Trujillo -- we call him Silly -- to strap him up;  
12 meaning we got some magazines, some books, and  
13 strapped them around Mr. Baca's body, you know, his  
14 stomach area, with an Ace bandage. He had his shank  
15 in his left -- I think in his left knee brace. He  
16 was preparing himself to go out there and go to war  
17 with somebody that was challenging him. And that's  
18 what he did.

19 Q. And what were the magazines and books  
20 intended to do?

21 A. To stop any type of harm that was going to  
22 be inflicted upon him, any type of stab wound. It  
23 wouldn't penetrate the magazines, so he would be  
24 okay. He wouldn't get stabbed.

25 Q. How did Mr. Baca come to see Mr. Rubio, if

1 you're in different pods?

2 A. He asked the control officer to pop the  
3 door of green pod. BB was out at recreation. He  
4 was going to go outside and be in the phone yard,  
5 which the unit manager, the case worker, and those  
6 offices are located. The CO would then come, when  
7 green pod's recreation time is over, open that gate,  
8 and they would exit the yard, and Mr. Baca would  
9 have -- or Javier Rubio would have free rein to each  
10 other. It would just be nothing but air and  
11 opportunity at that point.

12 Q. Did this happen? Did Mr. Baca go out  
13 there with the shank in his knee brace?

14 A. He went -- he went; I guess they talked  
15 out their grievances with each other, the  
16 disagreement. Nothing ever happened. Nothing ever  
17 came of it. I guess at that point they squashed it  
18 for whatever reason. I wasn't present for the talk.

19 MR. BECK: May I have a moment, Your  
20 Honor?

21 THE COURT: You may.

22 MR. BECK: Pass the witness, Your Honor.

23 THE COURT: Thank you, Mr. Beck.

24 Ms. Duncan, are you going to go first?

25 MS. DUNCAN: No, Your Honor.

1 THE COURT: Ms. Fox-Young.

2 Ms. Duncan, I did find your statement, if  
3 you want it. Is there any chance you can make me a  
4 copy of that?

5 MS. DUNCAN: I can, Your Honor.

6 THE COURT: Ms. Fox-Young.

7 CROSS-EXAMINATION

8 BY MS. FOX-YOUNG:

9 Q. Mr. Montoya.

10 A. Good evening.

11 Q. You've been looking for a ticket to  
12 freedom for a pretty long time, haven't you?

13 A. Yes.

14 Q. Since about the last time you plunged that  
15 shank into Javier Molina's chest and finished him  
16 off?

17 A. No.

18 Q. You talked to the Government the next day,  
19 didn't you?

20 A. I don't recall that.

21 Q. You don't recall that. And a number of  
22 times since?

23 A. I talked to them, yes.

24 Q. We'll talk about all those details, but  
25 first, let's talk about this recent meeting that you

1 had on January 22, 2018. Do you remember that with  
2 Mr. Beck, with the Government?

3 A. Yes, ma'am.

4 Q. And that's where for the first time you  
5 told the Government that Mr. Perez volunteered  
6 shanks from his walker; right?

7 A. I had thought I had disclosed that  
8 information before.

9 Q. You realize that you hadn't?

10 A. I guess not. I guess not.

11 Q. Now, it's your allegation that the  
12 conversation that you had with Mr. Perez was at  
13 Torrance County Detention Center; right?

14 A. Yes, ma'am.

15 Q. Do you remember when you left Torrance  
16 County Detention Center?

17 A. Yes, I do.

18 Q. When was that?

19 A. I think it was October of 2017, ma'am.

20 Q. And so October 2017. Do you think maybe  
21 it was maybe October of 2016?

22 A. Yes.

23 Q. So 15 months after you left Torrance  
24 County Detention Center, you told the Government for  
25 the first time what you've just told the jury?

1 A. Yes.

2 Q. Were you aware -- did you also tell the  
3 Government if you knew that Mario Rodriguez came in  
4 and took those shanks from Rudy Perez? From his  
5 walker, excuse me -- not from Rudy Perez.

6 A. Rudy told me that he gave him the shanks.

7 Q. That's not my question. My question was:  
8 Were you aware that Mario Rodriguez went into his  
9 cell and he's testified that he actually took them  
10 off the walker himself? Were you aware of that?

11 A. No.

12 Q. Okay. Well, let's talk about some other  
13 things that you were doing around the time that you  
14 made this statement to the Government on January 22,  
15 2018. You talked a little bit about Amelia  
16 Alvarado, your girlfriend?

17 A. Yes, ma'am.

18 Q. She was a correctional officer?

19 A. She was.

20 Q. At what facility?

21 A. Lea County.

22 Q. And she's been fired?

23 A. Yes.

24 Q. And she's been fired because of things  
25 that she did with you?

1 A. Yes, ma'am.

2 Q. Can you tell the jury how old she is?

3 A. 29.

4 Q. 29?

5 A. She's 29.

6 Q. And she's carrying your baby, isn't she?

7 A. No, she's not.

8 Q. She's not?

9 A. Not that I'm aware of, no.

10 Q. Do you remember telling the Government

11 that she is?

12 A. No.

13 Q. Just a minute, Mr. Montoya.

14 A. Yes, ma'am.

15 Q. So tell me when your relationship started

16 with Ms. Alvarado.

17 A. Last year, about October.

18 Q. And that was while you were incarcerated

19 at that facility?

20 A. Yes, ma'am.

21 Q. In Lovington?

22 A. Yes, ma'am.

23 Q. You said that you had sex with her about

24 three times?

25 A. Yes, ma'am.



1 Q. When was the first time?

2 A. The 21st of December.

3 Q. Where did you have sex with her in the  
4 facility?

5 A. In the multipurpose room.

6 Q. How were you able to do that without  
7 getting caught?

8 A. She and I snuck away.

9 Q. You snuck away in the evening?

10 A. I'm not exactly too sure what time it was,  
11 ma'am.

12 Q. Okay. And when was the second time?

13 A. I'm thinking December 24.

14 Q. Same thing, multipurpose room?

15 A. Yes, ma'am.

16 Q. And when was the third time?

17 A. The 26th or 27th, somewhere around there.

18 Q. And so it's your testimony that you have  
19 not talked to the Government at all about  
20 Ms. Alvarado being pregnant?

21 A. I don't believe she's pregnant, no.

22 Q. Have you talked to Ms. Alvarado about  
23 wanting her to have your baby?

24 A. Yes.

25 Q. But you don't think she's carrying your

1 baby?

2 A. No, she's not carrying my baby.

3 Q. Was she at some time?

4 A. Could have been.

5 Q. Could have been?

6 A. I don't know.

7 Q. You exchanged a number of letters with  
8 Ms. Alvarado, did you not?

9 A. After our relationship was disclosed, I  
10 exchanged letters with her, yes, ma'am.

11 Q. You didn't exchange any letters with her  
12 in December of 2017?

13 A. Oh, yes.

14 Q. Maybe they were intercepted?

15 A. There was one intercepted, yes.

16 Q. Have you seen those letters since?

17 A. I have, yes. Yes, ma'am.

18 Q. Are you -- you're look forward to getting  
19 out and spending some time with Ms. Alvarado?

20 A. I would like to.

21 Q. You've made some assurances to her about  
22 what your behavior will be like on the outside?

23 A. That I'll behave.

24 Q. That you'll try not to kill people  
25 anymore?

1 A. Absolutely.

2 Q. You remember saying that to her?

3 A. I will try, yes.

4 Q. And you remember saying that sometimes you  
5 don't have a choice but to hurt people?

6 A. It depends.

7 Q. Do you remember saying that?

8 A. Yes, ma'am. Yes, ma'am.

9 Q. But that you'd try very hard not to kill  
10 people?

11 A. I'll try very hard not to kill no one  
12 else.

13 Q. And I think you testified on direct that  
14 at some point after you carried on this relationship  
15 for a period of time, the jig was up, you got  
16 caught; right?

17 A. Yes, ma'am.

18 Q. And the cellphone that Ms. Alvarado had  
19 secreted into the facility was found?

20 A. Yes.

21 Q. And it was discovered that you had been  
22 having sexual relations with her?

23 A. Not off the cellphone. I admitted it.

24 Q. When did you admit it?

25 A. I don't know the date. It just happened

1 two weeks ago.

2 Q. Right. You were talking about it with Mr.  
3 Beck when you met with him on February 3, and you  
4 told him all this?

5 A. Oh, yes. Yes, ma'am.

6 Q. But I'm talking about before that. There  
7 was a time, was there not, when it was discovered  
8 that you had a cellphone in there and it was seized?

9 A. Um-hum.

10 Q. Do you remember when that was?

11 A. The beginning of January, maybe, ma'am.

12 Q. And do you know how it came to be that  
13 that cellphone was discovered?

14 A. No. I wasn't there at the facility.

15 Q. Oh, they found it while you were gone?

16 A. Yes.

17 Q. You were housed in the facility with an  
18 inmate who goes by the name Shadow; is that right?

19 A. Yes, ma'am.

20 Q. Who is Shadow?

21 A. Roy Martinez. He's another cooperator.

22 Q. You're aware that along with the cellphone  
23 that was found and the drug paraphernalia and the  
24 drugs, there was also a letter from Shadow?

25 A. Yes, ma'am.

1 Q. How did it come to be that that letter  
2 from Shadow was in the cell?

3 A. It was not in my cell. They think they  
4 found that in his cell, ma'am, with the other  
5 paraphernalia.

6 Q. Have you seen that letter?

7 A. Yes, ma'am.

8 Q. Are you aware of the allegation that you  
9 provided your tablet -- you know you had a tablet  
10 from this case; right?

11 A. Oh, yes, ma'am.

12 Q. Are you aware of the allegation that you  
13 provided your tablet to be recorded, so that images  
14 of dead bodies could be recorded by COs?

15 A. By the STIU officer at that facility, yes.

16 Q. Okay. Including the video of the Molina  
17 murder?

18 A. I don't know if it was recorded, ma'am. I  
19 don't recall that.

20 Q. You don't remember that. Are you aware of  
21 the allegation that you were using both cocaine and  
22 meth and Xanax, and those were in the facility?

23 A. I'm aware of that allegation, yes, ma'am.

24 Q. And that Ms. Alvarado was bringing in  
25 meth?

1 A. There was no meth.

2 Q. Are you aware of that allegation?

3 A. I'm aware of the allegation.

4 Q. So it's your testimony that there was no  
5 meth, but there was cocaine?

6 A. Yes.

7 Q. And there was Xanax?

8 A. Yes, there was.

9 Q. And there was Wellbutrin?

10 A. No.

11 Q. That was at the previous facility?

12 A. Yes, ma'am. The Wellbutrin was someone  
13 else's, and not provided by Ms. Alvarado.

14 Q. Okay. And so are you also aware that  
15 there was more than one inmate in the facility in  
16 Lovington who was concerned about your activities  
17 and how it might compromise safety?

18 A. Who is that?

19 Q. Are you aware that there was more than one  
20 inmate --

21 A. Yeah.

22 Q. -- who reported these activities?

23 A. Oh, yes, ma'am.

24 Q. Okay. And are you aware of the allegation  
25 that on December 5th, sometime between noon and 5:00

1 p.m., you walked directly into the control center  
2 and you received a cellphone and charger from  
3 Ms. Alvarado?

4 A. I don't know the exact date that I had  
5 received it, but...

6 Q. Does that sound familiar?

7 A. That sounds familiar.

8 Q. Do you think that's right?

9 A. Could be.

10 Q. And are you also aware that it's alleged  
11 that you took that cellphone and charger and you  
12 wrapped in it a towel and you brought it back to  
13 your cell?

14 A. Oh, yes, ma'am.

15 Q. And then on December 21, 2017, early in  
16 the afternoon, Ms. Alvarado opened up the rec door  
17 and let you walk into the control room again and had  
18 sex with you?

19 A. In the multipurpose room, yes.

20 Q. Just like you told me about. Are you also  
21 aware of the allegation that you had Suboxone and  
22 tobacco, which you kept in your underwear; and  
23 syringes, which you kept in your anal cavity?

24 A. No, ma'am, I didn't have no -- I was in no  
25 possession of syringes, where I kept them in my anal

1 cavity.

2 Q. You haven't admitted to that?

3 A. No. I didn't have the syringes.

4 Q. You know, do you not, that inmates who  
5 were housed with you were concerned about these  
6 kinds of activities and the fact that these  
7 activities might put them in danger?

8 A. That's what they say. But yes, I am aware  
9 of that.

10 Q. So the jig was up, and on January 5, that  
11 phone and the drugs and the letter were all seized;  
12 right?

13 A. Yes, ma'am.

14 Q. And after that, did you make any effort to  
15 reach out to Special Agent Acee or somebody else to  
16 report what had happened?

17 A. At that time, no.

18 Q. Okay. They heard from the police -- or  
19 you don't know?

20 A. They must have heard from the police, yes,  
21 ma'am.

22 Q. And so then about two and a half weeks  
23 later you testified that you did sit down with Mr.  
24 Beck. That was the January 22, 2018, interview and  
25 you didn't fess up at that point; you didn't tell



1 them?

2 A. No, ma'am, I did not fess up at that  
3 point.

4 Q. You said, "No, that wasn't my phone. No,  
5 I'm not having sex with Ms. Alvarado." It's not  
6 true?

7 A. Yes, I didn't fess up at that time.

8 Q. And then just over a week later, a week  
9 and a half later, you meet with Mr. Beck?

10 A. Yes.

11 Q. And you tell him it was your phone?

12 A. Yes. I had disclosed it to my attorneys  
13 and it was best that we disclose it to Mr. Beck a  
14 short time later.

15 Q. Because you knew that you would be asked  
16 about it in this trial?

17 A. Probably. But it was weighing heavy on  
18 me. I just needed to let it out, to let it be  
19 known, to tell the truth about it and not lie about  
20 it. Because eventually the lies were going to get  
21 me caught up and in trouble. So telling the truth  
22 was the best thing for me to do, to let the  
23 Government know that I was doing these activities.  
24 I was in possession of this phone. And that's it.  
25 Just tell the truth.

1 Q. It's hard to keep track of all the  
2 stories. It's easier if you just have one story;  
3 right?

4 A. The truth.

5 Q. And so you finally told them the truth  
6 about the phone and about the sexual relationship  
7 because at that point you no longer had to protect  
8 Ms. Alvarado; she'd already been fired; right?

9 A. Yes.

10 Q. And you told Mr. Beck that the reason you  
11 hadn't told the truth a week and a half prior was  
12 that you wanted to protect Ms. Alvarado?

13 A. Yeah, I wanted to protect her.

14 Q. That was more important than telling the  
15 truth in this case; right?

16 A. Her protection; her protection was very  
17 important to me, so I wanted to protect her and keep  
18 her out of this. But eventually I had to come clean  
19 with it.

20 Q. Eventually the Government came to be in  
21 possession of this information and they confronted  
22 you with it and you had no choice but to tell them  
23 the truth?

24 A. I told them the truth.

25 Q. But before that, it was more important to

1 you to preserve your relationship with Ms. Alvarado  
2 than it was to tell the truth?

3 A. I told the truth. But at the same time, I  
4 wanted to preserve my relationship with  
5 Ms. Alvarado.

6 Q. Okay. I think you testified on direct  
7 that you received some benefits for your work for  
8 the Government in this case; is that right?

9 A. Yes, ma'am.

10 Q. You received, I think, just over \$1,100;  
11 is that right?

12 A. Yes.

13 Q. Over a significant period of time. You've  
14 received some extra calls?

15 A. No, ma'am.

16 Q. Have you had any better conditions since  
17 you started working for the Government?

18 A. No. I'm in segregation. I don't get  
19 nothing extra.

20 Q. Okay. And the biggest thing, the most  
21 important thing to you, that you've received, is a  
22 promise that if you assist the Government in this  
23 case and testify against the men in this room, that  
24 you can get a greatly reduced sentence; isn't that  
25 right?

1           A.    I wasn't promised anything by the  
2 Government. The Government just told me to tell the  
3 truth, and that's it.

4           Q.    Well, let's put up Government's Exhibit  
5 681. This is, I think, the document that you  
6 recognize as the addendum to your agreement with the  
7 Government; right?

8           A.    Yeah, it looks like it.

9           Q.    This is what's otherwise known as the 5K?

10          A.    Yes, ma'am.

11          Q.    This is where the money is. And you  
12 remember the agreement right here, "The defendant  
13 agrees to testify truthfully if called as a  
14 witness"; is that right?

15          A.    Yes, ma'am.

16          Q.    Do you know who decides if you're  
17 testifying truthfully?

18          A.    Who is that?

19          Q.    It's not you; right?

20          A.    No.

21          Q.    It's this jury?

22          A.    The jury.

23          Q.    That's right.

24          A.    Yes.

25          Q.    And so it's your testimony today that you

1 were never promised anything. You think, sitting  
2 here today, that you could be -- that you're facing  
3 life; the Government ain't going to give you any  
4 better deal?

5 A. That's what I signed for.

6 Q. Okay. Let's listen to what's been marked  
7 as Defense Z12.

8 MR. BECK: Objection, Your Honor. May we  
9 approach?

10 THE COURT: You may.

11 (The following proceedings were held at  
12 the bench.)

13 THE COURT: This has already been  
14 admitted?

15 MS. FOX-YOUNG: It hasn't. And I was  
16 going to impeach him.

17 THE COURT: Well, what is it?

18 MS. FOX-YOUNG: The same way that I used  
19 it for David Calbert. It's a call where he says  
20 it's not -- he's not been promised, and he says he's  
21 been promised, and zero to 10 years, and great  
22 detail about --

23 THE COURT: It's not coming into evidence.  
24 It's just being used to impeach, Z12.

25 MS. FOX-YOUNG: I won't move to admit

1 based upon the Court's prior rulings.

2 MR. BECK: I didn't know what the  
3 impeachment was, but if he promised and he just said  
4 it wasn't, it's --

5 THE COURT: What is he going to say?

6 MS. FOX-YOUNG: Let me get my notes, Your  
7 Honor.

8 He's going to say he's been told he's not  
9 doing a life sentence anymore; that he's given a  
10 second chance, and that he signed an open plea, and  
11 it's for zero to 10. It's totally contrary to this  
12 testimony that he's expecting a life sentence and  
13 has no expectation of anything else.

14 MR. BECK: Well, I think the testimony is  
15 whether he was promised anything, and he says he  
16 isn't promised anything. I think to impeach him  
17 with those statements, you'd have to go over those  
18 statements first for proper impeachment.

19 MS. FOX-YOUNG: It still impeaches his  
20 direct testimony, Your Honor. He says he's been  
21 promised by his lawyers. His lawyer told him that's  
22 what he's getting.

23 THE COURT: I think it's close enough to  
24 impeachment that I'll allow it to be played.

25

1 (The following proceedings were held in  
2 open court.)

3 THE COURT: Ms. Fox-Young.

4 MS. FOX-YOUNG: Thank you, Your Honor.

5 So let's go ahead and play what's been  
6 marked as Defense Z12.

7 (Tape played.)

8 BY MS. FOX-YOUNG:

9 Q. Now, did that say this is a prepaid call  
10 from JR?

11 A. Yes, ma'am.

12 Q. Is that you?

13 A. Yes, ma'am.

14 Q. Go on.

15 (Tape played.)

16 Q. Is that you on the phone?

17 A. I'm listening.

18 Q. Okay. And do you know who you're talking  
19 to?

20 A. I don't know at this time.

21 Q. Okay. Go on.

22 (Tape played.)

23 Q. Do you know who you're talking to?

24 A. I think it's my wife. Just giving her  
25 some type of hope.

1 Q. I just asked if you knew who you were  
2 talking to.

3 A. I'm sorry. Yes.

4 Q. What is her name?

5 A. Terry Montoya.

6 Q. Are you still married to Ms. Montoya?

7 A. No.

8 Q. And I'll represent to you that this call  
9 was from February 8, 2017.

10 You can go on.

11 (Tape played.)

12 Q. All right, Mr. Montoya.

13 A. Yes.

14 Q. So in this call, you're not even talking  
15 about a life sentence; right?

16 A. No, ma'am.

17 Q. You say --

18 A. Yeah.

19 Q. -- "Zero to 10, and I'm not going to get  
20 the whole 10." You told your wife that?

21 A. I'm telling my wife that because I just  
22 got to give her something to be hopeful for at the  
23 end. I didn't want to disclose to her that I signed  
24 for life, so I made it -- I softened it up a little  
25 bit.



1 Q. So you lied to her?

2 A. I lied to her, you know.

3 Q. And you told her, did you not, that the  
4 lawyers told you that you're not going to do a life  
5 sentence anymore?

6 A. I told her that.

7 Q. That's not true?

8 A. Well, I know what I signed for, so I'm  
9 just telling her that.

10 Q. You just pulled this zero to 10 out of  
11 thin air?

12 A. I just pulled it out on Bluetooth.

13 Q. Now, that was February 8, 2017. As time  
14 went on, you started to think you were going to get  
15 an even better deal, or you represented it, didn't  
16 you?

17 A. I might have said it to -- like I said, to  
18 give them some type of hope for us to stay together  
19 and prolong my relationship with my wife.

20 Q. So after saying that you'd been promised  
21 zero to 10 --

22 A. Which I wasn't.

23 Q. And you know that the folks at this table,  
24 if you assist in this case, in their eyes, can file  
25 a motion and ask the Court to reduce your time?

1 A. Yes.

2 Q. And you talked to them about that?

3 A. They never gave me any type of number. I  
4 just threw that out there. They never told me.

5 Q. And you talked to Special Agent Acee about  
6 that?

7 A. I don't recall having a conversation with  
8 Acee about any type of duration.

9 Q. Okay. You don't recall. So you told your  
10 family zero to 10. Now, do you recall, about a week  
11 and a half later, saying the deal was even better  
12 than that based upon what your lawyers are telling  
13 you?

14 A. I don't know. I'd have to see.

15 Q. You don't remember?

16 A. We'd have to play it.

17 Q. Let's listen to Z11 and refresh your  
18 memory on that.

19 A. Yes, ma'am.

20 (Tape played.)

21 Q. All right, Mr. Montoya?

22 A. Yes, ma'am.

23 Q. Do you remember having that phone call?

24 A. I'm hearing it now. I don't remember it,  
25 but obviously I made the call.

1 Q. That's you on the call?

2 A. Yes, ma'am.

3 Q. And that call was from February 17, 2017.

4 And you remember -- you entered a plea agreement on  
5 January 27, 2017.

6 A. Okay.

7 Q. If you don't remember, I can show you the  
8 plea agreement, but I'll represent to you that's  
9 when it was. Would you like to see it?

10 A. No, ma'am. I trust you.

11 Q. All right.

12 A. It's okay.

13 Q. So about three weeks later you had this  
14 phone call. Who were you talking to in this call?

15 A. I didn't hear their voices, so I'm not  
16 exactly too sure, ma'am.

17 Q. You don't know who that was on the phone?

18 A. No.

19 Q. That wasn't Terry?

20 A. Could have been. I didn't hear the voice.  
21 It could have been my mom, my grandma, or my auntie.  
22 I'm not exactly sure, ma'am.

23 Q. Somebody in your family?

24 A. More than likely, yes, ma'am.

25 Q. And you told this person that when you get

1 out, it's going to spread like wildfire. What did  
2 you mean by that?

3 A. Oh, just like -- when I said I don't care  
4 what people think about me being a cooperator, me  
5 testifying against these guys. So I'm, like, I  
6 don't care what anyone thinks. When I win -- and if  
7 I get out, it will spread like wildfire. Like, hey,  
8 he's out, he got out. Because people didn't expect  
9 me --

10 Q. And Mr. Montoya, you said you were going  
11 to hit the projects. Is that the projects in  
12 Albuquerque?

13 A. I don't know why I said that. I guess it  
14 must have been. I'm not sure.

15 Q. You don't know why you said it?

16 A. No.

17 Q. Hit the projects. Then you talked about  
18 your lawyer coming to see you and saying at the end  
19 of all this -- first of all, your lawyer went over  
20 the sentencing guidelines with you; right?

21 A. At some point we probably did, yes, ma'am.

22 Q. That's what you said in this call?

23 A. At that time I probably was just saying  
24 that. We probably didn't go over no guidelines,  
25 ma'am.

1 Q. You don't think that was true?

2 A. No. I was probably saying that to whoever  
3 I was calling. Just like I said, it was to give  
4 these people hope that I'm going home.

5 Q. So you said, "We went over the sentencing  
6 guidelines." And your sentencing guidelines are  
7 what helps determine how much time you would do in  
8 the case that you weren't a Government witness;  
9 right?

10 A. Yes.

11 Q. And that's the life sentence?

12 A. Signed for life, yes.

13 Q. For murdering Javier Molina?

14 A. Yes. Yes, ma'am.

15 Q. And so you said you talked about the  
16 sentencing guidelines, but then your lawyers  
17 reassured you that a lot of people were going to  
18 come talk for you, on your behalf, including people  
19 from the Government; right?

20 A. I said that.

21 Q. Who did they tell you was going to talk  
22 for you on behalf of the Government?

23 A. They didn't say anybody would come talk  
24 for me. I just said that.

25 Q. This was all made up?

1 A. All made up.

2 Q. And when you said "we" are going to ask  
3 for time served for you, that didn't happen either?

4 A. No.

5 Q. So what was represented to you by your  
6 lawyer about what the Government was going to say on  
7 your behalf? Nothing?

8 A. They haven't told me anything.

9 Q. Okay. And you just don't really remember  
10 making that call?

11 A. Well, I know I made the call. I just  
12 don't remember the conversation. Like I said, I was  
13 being a little spontaneous, a little bit  
14 overexaggerated with what I was saying, and just to  
15 give my family and my wife and my mother hope that I  
16 will touch down, I will go home one of these days.  
17 It's all bad news every time.

18 Q. Your wife and your mother and your auntie  
19 are pretty important to you?

20 A. Yes, ma'am.

21 Q. As important as anybody in the world?

22 A. My family, yes.

23 Q. And you're telling this jury that you lied  
24 to them about how much time you were expecting to  
25 serve?

1 A. Well, if it was my wife, then, yeah, I  
2 told her a white lie to her, yes, ma'am.

3 Q. Mr. Montoya?

4 A. Yes, ma'am.

5 Q. Let's shift gears and talk a little bit  
6 about what was going on with you in March of 2014.

7 A. Okay, ma'am.

8 Q. You were at Southern New Mexico  
9 Correctional Facility?

10 A. Yes.

11 Q. Do you remember when you arrived at SNMCF?

12 A. I do.

13 Q. Can you tell me when that was?

14 A. October of 2010.

15 Q. So you'd been there for a substantial  
16 period of time?

17 A. Yes.

18 Q. Did you know Mr. Rudy Perez?

19 A. No, I did not.

20 Q. Were you in blue pod with him?

21 A. Oh, yeah. But yes, I met him in blue pod.

22 Q. Okay. You met him once you were there at  
23 Southern?

24 A. Oh, yes. I didn't know him before.

25 Q. He arrived in late 2013; right?

1 A. I'm not sure.

2 Q. You remember that when he arrived, he was  
3 pretty sick?

4 A. Rudy was sick, yes.

5 Q. Yeah. And you didn't see a lot of him?

6 A. No, he was in his room a lot. He was in  
7 the room a lot.

8 Q. And he had a walker that he had to use to  
9 get around; right?

10 A. Excuse me?

11 Q. He had a walker assigned to him that he  
12 had to use when he wanted to get around; right?

13 A. Yes, ma'am, he did.

14 Q. Now, sometime -- I think it was your  
15 testimony that on March 7 you learned about the  
16 possibility that something was going to go down  
17 involving Javier Molina?

18 A. Yes. Yes, ma'am.

19 Q. Now, you knew something about that before  
20 March 7, didn't you?

21 A. I did not know nothing.

22 Q. Did you ever make a call with Mario  
23 Rodriguez to Lupe Urquizo's brother asking about  
24 hitting Javier Molina?

25 A. No, I did not make a call.



1 Q. You never made that call?

2 A. With Mario Rodriguez and Lupe? No, I did  
3 not.

4 Q. Have you talked to Mario Rodriguez about  
5 that lately?

6 A. No.

7 Q. Have you talked to Lupe Urquizo about that  
8 lately?

9 A. No.

10 Q. So you have no recollection of ever making  
11 a call to Lupe Urquizo's brother asking, reminding  
12 him that you guys wanted to hit Javier Molina?

13 A. No, ma'am.

14 Q. No recollection. Okay.

15 Now, then, you did testify that you  
16 learned -- that you had a conversation about a  
17 tattoo that you wanted to get; right?

18 A. Yes.

19 Q. And that was on March 7?

20 A. It was before that.

21 Q. Like how many days before?

22 A. Are you talking about the conversation  
23 that I had with Daniel Sanchez?

24 Q. Well, I don't know who all you talked to,  
25 but you said something about wanting to get a tattoo

1 and learning that you couldn't; right?

2 A. Yes, ma'am.

3 Q. And when was that?

4 A. Maybe a couple weeks or so before the  
5 murder.

6 Q. And you'd been having kind of a rough time  
7 with Mario Rodriguez around that time, too, hadn't  
8 you?

9 A. I don't remember having a hard time with  
10 him. I know he wasn't my favorite person to be  
11 around. But as far as I know, we were cordial with  
12 one another.

13 Q. You weren't his favorite person to be  
14 around?

15 A. I'm not sure.

16 Q. Does Mario Rodriguez have a reputation?

17 A. I'm pretty sure he does.

18 Q. How would you describe it?

19 A. Annoying, aggressive.

20 Q. Aggressive?

21 A. Probably, yeah.

22 Q. Kind of unpredictable?

23 A. Oh, yes. Yes, ma'am.

24 Q. Crazy?

25 A. Unpredictable.

1 Q. Fierce?

2 A. Unpredictable sounds about right.

3 Q. Scary?

4 A. Yeah.

5 Q. Were you scared of him on March 7, 2014?

6 A. Probably, yes.

7 Q. You don't remember?

8 A. Probably.

9 Q. And so in the weeks leading up to Javier  
10 Molina's death, do you recall sort of not being in  
11 very good favor with the SNM?

12 A. I thought I was in pretty good favor with  
13 the SNM.

14 Q. Other people thought you weren't?

15 A. Other people thought I wasn't. But I  
16 thought I was in good terms with them. But I guess  
17 I wasn't.

18 Q. People like Mario Rodriguez thought you  
19 weren't?

20 A. Yeah, he thought I was not.

21 Q. What happened -- what happens to people if  
22 they're not in good favor with the SNM, if they run  
23 into somebody like Mario Rodriguez?

24 A. Well, whoever is not in favor with the SNM  
25 either gets moved on or gets hit.

1 Q. And so on March 7, 2014, I think you  
2 testified that you had a conversation with Mario  
3 Rodriguez in your cell?

4 A. Yes, ma'am.

5 Q. And that's when he brought you a big piece  
6 of metal to use to kill Javier Molina?

7 A. Yes, he did.

8 Q. And he told you you were going to do it?

9 A. Yes, he told me I was going to do it.

10 Q. Do you recall, when he came in, what you  
11 believed might happen when you first saw him in your  
12 cell?

13 A. I didn't know what was going to happen.

14 Q. And let me just tell you -- backing up a  
15 couple of weeks --

16 A. Okay.

17 Q. -- that Mr. Urquizo did testify in court  
18 that you called his brother in order to ask about  
19 permission to hit Javier Molina. But you don't  
20 remember that?

21 A. It wasn't me calling his brother at all to  
22 hit Javier, no. I do not remember that at all.

23 Q. To ask for paperwork?

24 A. No.

25 Q. That wasn't you?

1 A. No, it wasn't me.

2 Q. Mr. Urquizo was wrong?

3 A. Yeah, he was wrong. I didn't call his  
4 brother or anyone.

5 Q. Okay. So Mr. Rodriguez, Mario Rodriguez,  
6 comes into your cell, and in that moment when he  
7 came in with that piece of metal, did you think he  
8 was there for you?

9 A. I don't know. I threw up my hands, like,  
10 I'm not armed, so what's going on, what's up? And  
11 that's when he and I started conversing with one  
12 another about what was to happen.

13 Q. Okay. And that's when you started to  
14 ready yourself in a very short time to go hit Javier  
15 Molina?

16 A. What do you mean, ready myself? Prepare  
17 myself mentally?

18 Q. Yeah.

19 A. I guess, because that's what I had to do.

20 Q. Did Mr. Rodriguez threaten you?

21 A. No, he didn't threaten me.

22 Q. But it was your perception, when he came  
23 in with that metal, that it might be for you?

24 A. I didn't know what could have happened.

25 So it could have been for me. I just wasn't sure.

1 Q. And so on direct you talked about the  
2 events that followed, and how it was that you ended  
3 up in Javier Molina's cell after Mario Rodriguez  
4 waved you in; right?

5 A. Yes, ma'am.

6 Q. He waved you and Mr. Armenta in after Mr.  
7 Martinez choked Javier Molina out?

8 A. Yes, ma'am.

9 Q. And you testified that Mario Rodriguez  
10 actually held Javier Molina's hands down so he  
11 couldn't help himself?

12 A. Yes, ma'am.

13 Q. You watched that?

14 A. I watched it from where I was positioned,  
15 yes, ma'am.

16 Q. And then seconds later you and Mr. Armenta  
17 went into the cell and proceeded to stab Mr. Molina?

18 A. We did.

19 Q. And how many times did you personally stab  
20 Mr. Molina?

21 A. Maybe half. Maybe half. I took part in  
22 it. I wasn't counting how many times I stabbed him.

23 Q. Do you know he was stabbed over 40 times?  
24 So you're saying split between you?

25 A. Twenty between us.

1 Q. Okay. And did you see Mario Rodriguez  
2 stab him at any point?

3 A. No, he didn't.

4 Q. You didn't see that happen?

5 A. Because he didn't.

6 Q. And so you proceeded to stab Mr. Molina.  
7 And do you know if you personally stabbed him in the  
8 heart?

9 A. I do not know that.

10 Q. You just stabbed him as close to the heart  
11 as you could get?

12 A. It was in his chest area. I don't know if  
13 it was myself or someone else. Jerry Armenta might  
14 have stabbed him in the heart. I don't know who it  
15 was. We both were doing it.

16 Q. You know, sitting here today, he was  
17 stabbed in the heart?

18 A. I know that today, yes, ma'am.

19 Q. And so then, at some point, Mr. Molina, I  
20 think you said -- he came charging out; is that  
21 right?

22 A. He gained consciousness, and he came  
23 charging out of his room, yes, ma'am.

24 Q. And at that time, Mr. Rodriguez was  
25 watching the events progress; right?

1 A. Yes, he was.

2 Q. And where was Mario Rodriguez watching  
3 from?

4 A. He was watching from outside the cell by  
5 the guardrail.

6 Q. Okay. And he was yelling at you guys to  
7 finish the job?

8 A. He was, ma'am.

9 Q. And so you did?

10 A. We were ordered to do it.

11 Q. And once you were done, you threw your  
12 shank up to Mario?

13 A. Yes, ma'am, I did.

14 Q. And he disposed of it for you?

15 A. Yes, ma'am.

16 Q. Of course, it was soon recovered, and it  
17 soon became clear; that all this was on video?

18 A. Absolutely.

19 Q. Okay. And then the next day you talked to  
20 folks at the prison about the murder, did you not?

21 A. I think so.

22 Q. You don't remember?

23 A. March --

24 Q. March 8.

25 A. The investigators?



1 Q. Did you talk to anybody about the -- at  
2 the correctional facility about the murder on March  
3 8?

4 A. I don't remember talking to nobody, about  
5 the murder, anyhow, on the 8th of March.

6 Q. Do you remember talking to Mr. Holguin?

7 A. Oh, yes, ma'am.

8 Q. And how did that interview come to take  
9 place?

10 A. I called him in.

11 Q. So you asked for him to come talk to you?

12 A. Yes.

13 Q. And at that point you knew that you were  
14 caught on video; right?

15 A. I wasn't sure. I wasn't sure.

16 Q. You thought you were?

17 A. Yes, ma'am.

18 Q. And so from that first moment, it was time  
19 to find a way out of this deal; right? That ticket  
20 to freedom. You knew they had you.

21 A. I didn't know. I didn't know how it was  
22 at that time, ma'am. I called them in. I don't  
23 remember talking to them about the murder.

24 Q. You remember calling Ernie Holguin in to  
25 talk to you; right?

1 A. I do, yes.

2 Q. And do you remember talking to him about  
3 where shanks were located in the blue pod?

4 A. I don't recall that.

5 Q. Would it refresh your memory if I showed  
6 you a report generated by Mr. Holguin?

7 A. Yes, you can.

8 MS. FOX-YOUNG: Your Honor, may I  
9 approach?

10 THE COURT: You may.

11 BY MS. FOX-YOUNG:

12 Q. All right. Mr. Montoya, I'm showing you  
13 this report. Do you see where it says this is for  
14 an interview on March 8?

15 A. Yes, ma'am.

16 Q. Okay.

17 A. Yes, ma'am.

18 Q. I'm just going to ask you to look -- and  
19 take as much time as you need. Look at this second  
20 page and see the areas I've noted.

21 A. Yes, ma'am.

22 Q. Let me know when you're done.

23 A. I remember talking to Mr. Holguin about  
24 those subjects.

25 Q. Okay.

1 A. Yes, ma'am.

2 Q. So Mr. Montoya, having looked at this  
3 report, you now remember talking to Mr. Holguin  
4 about where there were shanks in blue pod?

5 A. Yes, ma'am.

6 Q. Do you remember telling him about Lupe  
7 Urquizo having a shank?

8 A. I must have told him at that time, yes.

9 Q. Yeah.

10 A. Yeah.

11 Q. And you remember telling him that it would  
12 put somebody in danger to give up the location of  
13 their shanks, right, if they were found?

14 A. Yes.

15 Q. And why is that?

16 A. They could potentially be used on them.  
17 Somebody might get it and, you know, take it for  
18 them as their own, and use it on the owner or anyone  
19 else in the pod. So everybody kept their shanks  
20 hidden and quiet so that they only know where they  
21 are.

22 Q. And if someone were to make a report to  
23 anybody in the prison about the location of any  
24 shanks, they could be killed; right?

25 A. Yes, ma'am. If somebody told where shanks

1 were, then they would be in trouble.

2 Q. With people like Mario Rodriguez?

3 A. Yes, ma'am.

4 Q. And when you talked to Mr. Holguin on the  
5 8th you didn't fess up as to your role in the  
6 murder; right? You sort of talked around it?

7 A. Yes, ma'am. I didn't talk too much about  
8 the murder at all.

9 Q. Actually, I think on that day you did know  
10 that they had video, and you did describe what was  
11 on the video. Do you remember that?

12 A. I don't recall, ma'am.

13 Q. Okay. So you had a conversation within 24  
14 hours of the murder with Corrections Department  
15 officials because you knew you had to figure out  
16 some way to move forward. You were caught  
17 bloody-handed.

18 A. That's fair to say.

19 Q. And when you talked to Mr. Holguin on that  
20 day, you didn't say anything about Rudy Perez, did  
21 you?

22 A. He didn't cross my mind.

23 Q. Didn't say one word about him?

24 A. Didn't cross my mind.

25 Q. Okay. Subsequently --let's put up

1 Government's Exhibit 756.

2           You testified that this letter that Jerry  
3 Armenta sent to you, which was dated January 3,  
4 2015, was not your brain child; right? You didn't  
5 come up with this idea to do this letter?

6           A.    No, I did not.

7           Q.    You didn't talk to Mr. Armenta before he  
8 drafted it?

9           A.    I did not, ma'am. I don't recall.

10          Q.    Okay. Could you zoom in.

11                Now, this letter from January 3 of 2015  
12 doesn't say anything about Rudy Perez; right? You  
13 don't see it anywhere in this letter. I know you  
14 didn't write this letter.

15          A.    I don't see his name in there, ma'am.

16          Q.    Okay. And you arrived at the Penitentiary  
17 of New Mexico right around this time, didn't you?

18          A.    In Santa Fe, you mean?

19          Q.    Yeah, up north.

20          A.    North.

21          Q.    Just a couple days after this letter is  
22 dated; do you remember?

23          A.    I must have been transported back. I've  
24 been transported a lot in these last four years.  
25 I've been on a lot of road trips, ma'am.

1 Q. I know it's a lot to remember.

2 Mr. Montoya?

3 A. Yes, ma'am.

4 Q. I'd like to show you -- would it help you  
5 remember if we took a look at -- it's a portion of  
6 your location history that shows where you were at  
7 particular times in the past in the Corrections  
8 Department.

9 A. That would help.

10 Q. Okay. Let's take a look at Defense V21.

11 MS. FOX-YOUNG: Your Honor, I move the  
12 admission of V21. I don't think the Government  
13 objects.

14 THE COURT: V21?

15 MR. BECK: No objection, Your Honor.

16 THE COURT: All right. How about you, Ms.  
17 Jacks? Any objection?

18 MR. JEWKES: No, Your Honor.

19 MS. JACKS: My request was to provide my  
20 objections, if there were any, tomorrow morning. At  
21 this point, on this exhibit, no, we can go forward.

22 THE COURT: Well, why don't you look at  
23 V21? We'll just take it one at a time. We'll take  
24 a look at V21. Show it to Ms. Jacks. Take care of  
25 the other ones tomorrow.

1 MS. JACKS: No objection.

2 THE COURT: Anybody else?

3 MS. DUNCAN: No, Your Honor.

4 THE COURT: All right. Defendants'

5 Exhibit V21 will be admitted into evidence.

6 (Defendants' Exhibit V21 admitted.)

7 THE COURT: Ms. Fox-Young.

8 MS. FOX-YOUNG: Thank you, Your Honor.

9 BY MS. FOX-YOUNG:

10 Q. Mr. Montoya, have you ever seen a document  
11 like this before?

12 A. I don't think so, ma'am.

13 Q. This is a document that the Corrections  
14 Department generates that purports to show any  
15 particular individual's location at a given time.  
16 So this letter that we were looking at for Mr.  
17 Armenta was written on January 3, 2015. And I was  
18 asking you if that's close to the time that you went  
19 to PNM, and it looks to me like you went to PNM  
20 right here on January 6, 2015. Do you see that?

21 A. I see that, ma'am.

22 Q. You were in cell Q107?

23 A. Yes.

24 Q. Do you remember that?

25 A. If it reads my location on there, then I

1 was there, ma'am.

2 Q. Okay. Well, do you remember being at PNM  
3 in early 2015?

4 A. Yes, ma'am.

5 Q. Okay. Do you remember being there with  
6 Mr. Armenta?

7 A. Excuse me?

8 Q. Do you remember being there with Mr.  
9 Armenta?

10 A. Oh, yeah. Yes, ma'am.

11 Q. And into the spring, you were there for  
12 some months; right?

13 A. Yes, ma'am.

14 Q. And was Mr. Rodriguez also there?

15 A. Everybody that was housed there, yeah,  
16 anyone that was involved in the homicide was housed  
17 there. They transferred all of us that they  
18 thought --

19 Q. And they transferred people who weren't  
20 involved, too; right? They transferred everybody  
21 that was alleged to be SNM at some point?

22 A. To my knowledge, they transported people  
23 that were involved.

24 Q. It's okay if you don't know exactly who  
25 was transported.



1 A. No.

2 Q. But you remember being there with Mr.

3 Armenta and Mr. Rodriguez and Mr. Martinez?

4 A. Yes, ma'am. Yes, I do.

5 Q. And you remember talking with them about  
6 the murder?

7 A. About our case.

8 Q. About your case?

9 A. The murder? The case?

10 Q. Either one.

11 A. I don't know. We talked about -- yeah, I  
12 guess so. Yes.

13 Q. And you talked about Mr. Armenta's letter?

14 A. No.

15 Q. Never talked to him about that?

16 A. Afterwards I must have told him, yeah. I  
17 guess, yeah, we did talk about it after it was  
18 already written.

19 Q. And you all talked about going to work for  
20 the Government?

21 A. Excuse me?

22 Q. You talked about going to work as  
23 Government witnesses?

24 A. Oh, no. No.

25 Q. Do you remember whether Billy Cordova was

1 there with you?

2 A. He lived in the next pod over, ma'am. I  
3 remember seeing him there, yes.

4 Q. Do you remember seeing Eric Duran there?

5 A. I do, ma'am, yes.

6 Q. And there was talk amongst all of you  
7 about the Molina case; right?

8 A. Yeah, of course. That's the hot topic on  
9 the yard, you know. Everyone -- a lot of people  
10 were involved in it. So that was what we were  
11 talking about. That was the thing. Yes, ma'am.

12 Q. And you were talking about the state case?

13 A. The State's case, yes.

14 Q. Because you hadn't been charged yet in  
15 this case?

16 A. Not yet.

17 Q. The feds hadn't picked it up yet?

18 A. No, ma'am.

19 Q. Do you remember any rumors at that time  
20 about Rudy Perez talking to the Government?

21 A. I don't remember.

22 MR. BECK: Your Honor, objection. The  
23 question calls for hearsay.

24 THE COURT: Well, if you're just asking  
25 for Rudy again, I think you're going to have to lay

1 a foundation, like we did with the --

2 MS. FOX-YOUNG: I think he said he doesn't  
3 remember. I'll move on.

4 BY MS. FOX-YOUNG:

5 Q. So at that time, you said you and Mr.  
6 Armenta and Mr. Martinez and Mr. Rodriguez were all  
7 in the same pod; right?

8 A. We were all in different pods. I'm pretty  
9 sure at one point a couple of us were housed in the  
10 same pod.

11 Q. But you were able to communicate with one  
12 another. How was that?

13 A. The gang unit there at the prison houses  
14 all the SNM Gang members together, regardless if  
15 they're co-defendants or not. We're housed  
16 together. That's how they house the SNM.

17 Q. So you were able to talk to Mr. Billy  
18 Cordova, even though you weren't next door to him?

19 A. If I seen him out in the yard, that's the  
20 only way we could communicate, in the yard. So if I  
21 seen him out there, I would communicate with him.

22 Q. And you were able to talk to Mr. Eric  
23 Duran?

24 A. If I seen him out in the yard.

25 Q. You remember talking to them during that

1 time period? I know it's been a while.

2 A. I'm pretty sure if I crossed paths with  
3 them, I'm pretty sure we talked.

4 Q. Okay. And sometime that summer things are  
5 sort of boiling up in the state case; right? It was  
6 going to be set for trial?

7 A. Yes, ma'am, for the fall.

8 Q. I'm sorry. That fall. Do you remember  
9 the next time you talked to any Government agents?

10 A. No.

11 Q. And I mean Corrections Department, for  
12 example, or police or prosecutors about the Molina  
13 homicide?

14 A. They had approached me.

15 Q. Who had approached you?

16 A. The STIU.

17 Q. Okay. Did you talk to them?

18 A. No.

19 Q. So do you remember the next time that you  
20 did talk to law enforcement or Corrections  
21 Department officials about the Molina homicide? I  
22 know you talked to them the day after the homicide.

23 A. Yeah.

24 Q. Do you remember the next time?

25 A. I'm not sure, ma'am.

1 Q. Do you remember talking to State Police in  
2 August of 2016 -- I'm sorry, it wasn't August 2016.  
3 Do you remember talking to State Police at some  
4 later date with Sergeant Larcher and Agent  
5 Palomares?

6 A. I remember that now, yes.

7 Q. When did that conversation happen?

8 A. In March, I think.

9 Q. Of 2015. It had to be, right, because you  
10 hadn't yet been charged in the federal case.

11 A. It might have happened in March of 2014,  
12 ma'am. I'm not --

13 Q. In any event, you talked to Sergeant  
14 Larcher and you talked to Agent Palomares, and do  
15 you remember your discussions with them?

16 A. I do.

17 Q. Do you remember you were trying  
18 desperately to get a deal; right?

19 A. I was fishing for one. Yes, I was.

20 Q. So did you ask to meet with them?

21 A. I did not ask to meet with them, no.

22 Q. They came to see you?

23 A. Yes, ma'am.

24 Q. Where did that interview happen?

25 A. This happened at Southern New Mexico, here

1 in Las Cruces.

2 Q. And they came to see you, and you learned  
3 at that time that they had the video; right?

4 A. I knew that they had a video. I just  
5 didn't -- yes.

6 Q. That the homicide was on video? You  
7 learned that?

8 A. Yes.

9 Q. And discussed that?

10 A. We didn't discuss it, no. I didn't  
11 discuss the case with them at all.

12 Q. You didn't discuss the case with them at  
13 all?

14 A. I found out there was a video, is what I  
15 meant. I'm sorry. Probably didn't go in too much  
16 detail about the events of that day.

17 Q. But you were "fishing"; those were your  
18 words?

19 A. Yeah.

20 Q. Okay. So you talked to them and you  
21 learned that they had you cold, and they had Mario  
22 Rodriguez cold, and they had Timothy Martinez cold;  
23 right?

24 A. They had us on video, yes.

25 Q. And they had Jerry Armenta cold?

1 A. Yes, ma'am.

2 Q. They knew all that. So you were fishing,  
3 and you're trying to figure out what else you could  
4 give them to get yourself a deal; right?

5 A. Yes.

6 Q. And on that day you did give them some  
7 detail, didn't you?

8 A. I might have.

9 Q. You did talk about other people who were  
10 involved; right?

11 A. I might have, ma'am.

12 Q. But you didn't tell them one word about  
13 Rudy Perez, did you?

14 A. At that time he didn't come to mind. The  
15 shank issue was not a hot topic at that time. They  
16 weren't --

17 Q. You didn't care where the shanks came  
18 from; right?

19 A. I didn't care, no.

20 Q. That didn't matter to you?

21 A. No, ma'am, I didn't care where they came  
22 from.

23 Q. And so you talked about people who you  
24 thought were involved because you wanted to curry  
25 favor and try to give the Government something that

1 they didn't already have, right, to get yourself a  
2 deal?

3 A. I talked to people that were involved.

4 Q. I'm sorry, was that a yes?

5 A. I talked to people -- to them about people  
6 that were involved.

7 Q. Right. Because you were trying to get a  
8 deal from State Police, and you wanted them to go to  
9 the district attorney and try to put something  
10 together for you; right?

11 A. I might have been trying to gain favor.

12 Q. Okay. But you didn't say anything about  
13 Rudy Perez, and you didn't care where the shanks  
14 came from?

15 A. I didn't say anything about Rudy.

16 Q. And then at some point later, you did end  
17 up charged in this case; right?

18 A. Yes, ma'am.

19 Q. And do you remember when the first time  
20 was that you talked to any federal agents?

21 A. It was the following year. I think  
22 January of 2017, somewhere around there.

23 Q. Okay. And do you remember when you were  
24 charged in this case?

25 A. December 2015.



1 Q. Okay. And so sometime between December  
2 2015 and January 2017 you were housed in Estancia,  
3 at the Torrance County Detention Center?

4 A. Yes, ma'am.

5 Q. Right. And you left -- do you remember  
6 when you left the Torrance County Detention Center?  
7 You told me earlier.

8 A. October.

9 Q. Okay. And where did you go?

10 A. PNM, Penitentiary of New Mexico, up in  
11 Santa Fe.

12 Q. So October 2016 you left and you went back  
13 to Santa Fe?

14 A. Yes, ma'am.

15 Q. And after that time you had some  
16 conversations with Government agents; right?

17 A. It wasn't there at the facility, no. It  
18 was the following year.

19 Q. Well, you said in January. So you got  
20 moved in October 2016. You got moved away from  
21 everybody who was at Torrance County?

22 A. Yes.

23 Q. You went to Santa Fe. And then you talked  
24 to Government agents in January of 2017; right?

25 A. Yes, ma'am.

1 Q. And do you remember who you met with?

2 A. Yes, I do.

3 Q. Who did you meet with?

4 A. Special Agent Bryan Acee.

5 Q. Um-hum.

6 A. And the Government team right there.

7 Q. Ms. Armijo, Mr. Castellano, and Mr. Beck?

8 A. That would be right, yes.

9 Q. And at that time you provided some  
10 additional information about the Molina case; right?

11 A. I disclosed everything I know about the  
12 Molina case, right.

13 Q. And you disclosed a whole bunch of other  
14 stuff; right? Whatever you could give them.

15 A. Things that I knew of that the SNM had  
16 done.

17 Q. Do you remember how long that interview  
18 was?

19 A. I don't know. An hour, hour and a half,  
20 ma'am.

21 Q. Maybe an hour and a half?

22 A. Yeah.

23 Q. And with regard to the Molina case, do you  
24 remember specifically what you said?

25 A. Pretty much what I'm saying in my

1 testimony today.

2 Q. Do you remember talking about the penalty  
3 that individuals might face for talking to the  
4 Government?

5 A. Yes.

6 Q. And what was that?

7 A. Well, penalty of, you know, being killed.

8 Q. And would that penalty apply even if there  
9 were just rumors that you were talking to the  
10 Government and you weren't really?

11 A. Yeah. If someone believes that, you know,  
12 you're ratting or talking to the Government, giving  
13 up information, and if that's their truth, they're  
14 going to move on you and something bad could happen.

15 Q. And you remember at that time you talked  
16 about where the shanks -- where you thought the  
17 shanks came from; right?

18 A. It might have came up, ma'am.

19 Q. And that you had heard from Mario  
20 Rodriguez about where they came from; right?

21 A. Yes, ma'am.

22 Q. What had you heard?

23 A. I asked Mario where he got the shanks, and  
24 he told me he got them from Rudy Perez' walker.

25 Q. And that was the sum total of what you

1 told the Government in January 2017 about Rudy Perez  
2 and any potential involvement in this case; right?

3 A. I figured it would come up later.

4 Q. Just answer my question, Mr. Montoya.

5 A. Yeah.

6 Q. So at that time you described -- well, did  
7 you tell the Government whether or not you thought  
8 Rudy Perez was scared when Mario Rodriguez took  
9 those pieces?

10 A. I don't remember saying that he was  
11 scared.

12 Q. Do you remember saying that he had some  
13 concerns about whether he was --

14 A. The target?

15 Q. Yeah.

16 A. Yes.

17 Q. You told the Government about that?

18 A. Yeah, because that's the way it was told  
19 to me by Mario.

20 Q. Okay. So you believed then that Mario  
21 Rodriguez had gone in to Rudy Perez' cell and  
22 himself taken those pieces and scared Rudy Perez,  
23 and that's what you told the Government?

24 A. That's what I told them.

25 Q. And that was about three months after you

1 left the Torrance County Detention Center. So it  
2 would have been about three months at that time  
3 since you'd seen Rudy Perez; is that right?

4 A. Yes.

5 Q. And in exchange for all this information  
6 on January 20, 2017, did you get any promises from  
7 the Government? Did you get any benefits? Did they  
8 agree to move you?

9 A. Move me? I was moved facilities already.  
10 But other than giving me any type of promises, I  
11 don't recall them promising me anything.

12 Q. Okay. And so at that time you had to keep  
13 working. And did you talk to the Government again  
14 before you entered your plea agreement a week later?

15 A. I might have.

16 Q. Maybe on the day of your plea agreement;  
17 right?

18 A. Yes. Do you mean, like, to give a debrief  
19 or something? I don't remember that.

20 Q. Okay. But you remember coming into court  
21 and pleading guilty to the murder of Javier Molina?

22 A. Yes, ma'am.

23 Q. And you remember that there were certain  
24 facts that you had to say were true --

25 A. Yes, ma'am.

1 Q. -- in the body of that agreement; right?

2 A. Yes.

3 Q. And those facts didn't deviate at all from  
4 what you had told the Government a week before in  
5 your debrief; right?

6 A. No, they didn't waver whatsoever.

7 Q. And so you again told the Government that  
8 Mario Rodriguez had taken pieces from Rudy Perez'  
9 walker and sharpened them himself and told you  
10 that's where they came from; right?

11 A. That's what I said when I pled guilty,  
12 ma'am, yes.

13 Q. I can show it to you if you don't  
14 remember.

15 A. If it's there, then I said it.

16 Q. That was under oath, and you told this  
17 Court that those are the facts upon which your  
18 guilty plea was based, in addition to others?

19 A. Yes.

20 Q. And you didn't say anything about Rudy  
21 Perez telling you that he volunteered to help on  
22 that day; right? You didn't tell the Court that?

23 A. No, ma'am.

24 Q. And that was months after you'd left  
25 Torrance County Detention Center, and months since

1 you'd seen Rudy Perez; right?

2 A. Yeah, it was a while.

3 Q. Okay. And then again you met with the  
4 Government just before this trial; right?

5 A. Yes.

6 Q. And you talked about meeting with the  
7 Government on January 22. You didn't say anything  
8 about Rudy Perez in that conversation; right?

9 A. I might have. I don't know. I might  
10 have, ma'am.

11 Q. And it was only then, in the days before  
12 this trial began, that you realized that you might  
13 be able to curry even more favor if you could give  
14 the Government something else, something that you  
15 hadn't already told them, something else that would  
16 implicate somebody further in this case; is that  
17 right?

18 A. Such as?

19 Q. And that's when you made up this story  
20 about Rudy Perez and what he told about volunteering  
21 to help; isn't that right?

22 A. No. I didn't make up any story. It was  
23 what Rudy had told me while he were housed at  
24 Estancia. So what he told me is -- I told them.

25 Q. So for 15 months you didn't tell the

1 Government that? You're representing to this jury  
2 that you learned that in Torrance County Detention  
3 Center sometime before October 2016, and you never  
4 told the Government? It's not documented in any  
5 report. And in the days before this trial, when  
6 you're to come sit here and testify and demonstrate  
7 to the Government that you deserve a lesser  
8 sentence, zero to 10 years, or maybe even time  
9 served --

10 A. Yeah.

11 Q. -- that you came up with the story about  
12 Rudy Perez; isn't that right?

13 A. No.

14 Q. That's when you told them?

15 A. No.

16 MS. FOX-YOUNG: Your Honor, no further  
17 questions.

18 THE COURT: Thank you, Ms. Fox-Young.  
19 Anybody else going to cross-examine Mr. Montoya?  
20 Mr. Jewkes?

21 MR. JEWKES: Your Honor, may it please the  
22 Court.

23 THE COURT: Mr. Jewkes.



1 CROSS-EXAMINATION

2 BY MR. JEWKES:

3 Q. Mr. Montoya, how are you, sir?

4 A. I'm doing well, sir. Thank you.

5 Q. Mr. Montoya, you've been over a lot of  
6 ground this afternoon. A few points I want to talk  
7 to you about and, I want to go back to March 7,  
8 2014.

9 A. Yes, sir.

10 Q. At Southern New Mexico facility. How many  
11 of you were actually inside Javier Molina's cell  
12 when the assault began?

13 A. There were four of, sir, that were  
14 present.

15 Q. And they were, once again, you?

16 A. Myself. Jerry Armenta, Timothy Martinez,  
17 and Mario Rodriguez.

18 Q. Mario Rodriguez. Also known as Blue?

19 A. Also known as Blue, yes, sir.

20 Q. And who was the first one of you to lay a  
21 hand on Javier Molina?

22 A. It might have been Timothy Martinez, sir.

23 Q. Timothy?

24 A. Yes, sir.

25 Q. Did he stab Mr. Molina or did he strike

1 him?

2 A. He choked him.

3 Q. Choked him?

4 A. Yes.

5 Q. Did he come up behind him, put a choke  
6 hold on him?

7 A. Yes, sir. He came up behind him, put a  
8 choke hold on him.

9 Q. So he came up behind Javier Molina?

10 A. Yes.

11 Q. Threw an arm around the front of his  
12 throat?

13 A. Yes.

14 Q. And what else happened? Who moved in at  
15 that time?

16 A. Well, when Timothy Martinez was choking  
17 him, Mario was holding his hands. Then Javier lost  
18 consciousness. Laid him on the floor, stomped on  
19 his head. And then after that, myself and Jerry  
20 Armenta moved into the room.

21 Q. Okay.

22 THE COURT: Mr. Jewkes, would this be a  
23 good time to call it an evening?

24 MR. JEWKES: Yes, Your Honor.

25 THE COURT: All right.

1 We'll see you at 8:30 in the morning.

2 Thank you for your hard work. See you then. All  
3 rise.

4 (The jury left the courtroom.)

5 THE COURT: Mr. Montoya, you're on the  
6 stand right now and you're testifying, so don't talk  
7 to anybody about your testimony. Okay?

8 THE WITNESS: All right, yes, sir.

9 THE COURT: All right. We will see you in  
10 the morning. I appreciate your hard work. Y'all  
11 have a good evening.

12 (The Court stood in recess.)  
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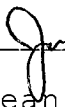
1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3  
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
6 Official Court Reporter for the State of New Mexico,  
7 do hereby certify that the foregoing pages  
8 constitute a true transcript of proceedings had  
9 before the said Court, held in the District of New  
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my  
12 hand on this 4th day of February, 2019.

13  
14   
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